

NATIONAL MARINE FISHERIES SERVICE

JOINT MEETING OF THE BILLFISH  
AND HMS ADVISORY PANELS

Friday, June 11, 1999

8:30 a.m.

NOAA Science Center  
1301 East-West Highway  
Silver Spring, Maryland

## PARTICIPANTS:

Irby Basco  
Nelson Beideman  
Randy Blankenship  
Raymond Bogan  
Karyl Brewster-Geisz  
Jose Campos  
Maumus Claverie  
Jack Dunnigan  
James Donofrio  
Bob Eakes  
Robert Fitzpatrick  
Sonja Fordham  
John Graves  
Robert Hayes  
Robert Hueter  
Ed Irby  
Pete Jensen  
Gail Johnson  
Rob Kramer  
Rebecca Lent  
Steven Loga  
Linda Lucas  
Gary Matlock  
Joe McBride  
Charlie Moore  
Russell Nelson  
Ellen Peel  
Corky Perett  
Richard Ruais  
Carl Safina  
Mark Sampson  
Robert Spaeth  
Alan Weiss  
Peter Weiss  
David Wilmot  
John Wingard  
Robert Zales

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## 1 P R O C E E D I N G S

2 MR. DUNNIGAN: -- question of the cap on the  
3 purse seine category for bluefin tuna. The Billfish  
4 panel will join us along about 9:30 or 10 o'clock when  
5 we will go into the discussion about the time/area  
6 closures following up on what we heard yesterday.

7 What I would like to do is just set the stage  
8 a little bit as to where I think we are, and I may be  
9 wrong but just to sort of get it kicked off. And then  
10 I think what we had for this morning is some open  
11 discussion. I don't have any particular ideas about  
12 how to structure it beyond just opening the floor and  
13 see where you all feel.

14 What I would like to do though at probably  
15 about 9:15 or 9:20 is to sort of break off the  
16 discussion and the go around the table and let each  
17 individual advisory panel member state for the record  
18 where you are on this issue so that we have a very  
19 clear record after we've had some general discussion  
20 about what your advice back to the Service is.

21 So that's the process that we'll try to follow  
22 and see how it works. Where are we on this issue? If

1     you look at the language that is in the Fishery  
2     Management Plan, it's written in there that the  
3     question of what the allocations among the various  
4     sectors of the bluefin tuna fishery should be was  
5     considered. Some decisions were made.

6             The question of a cap on the purse seine  
7     category is one that was left for further consideration  
8     and that is what the Service is coming back to us with  
9     at this meeting, trying to flesh out that issue some  
10    more and get some advice back as to where they ought to  
11    go with a potential framework action.

12            So that's where we are. This is the bluefin  
13    tuna purse seine cap issue. The floor is open for  
14    general discussion and I'll start with Rich Ruais.

15            MR. RUAIS: Thank you, Jack. I think I do  
16    have a little bit of a few things that I want to run by  
17    the committee but I'm going to use the overheads.

18            But first I kind of have to disagree a little  
19    bit with your characterization. The cap is in effect  
20    right now. The rule becomes final on the 30th of June,  
21    or July 1, and we're living with this cap. The  
22    question now is whether or not the National Marine

1 Fisheries Service wants to consider a framework  
2 regulatory action to change the cap. So that's a  
3 little bit different.

4 Can we get some power for the overhead?

5 Yesterday I tried to distribute to HMS  
6 Advisory Panel members -- I didn't have enough copies  
7 for the Billfish Panel as well. I tried to distribute  
8 a transcript of the February 24th meeting which also  
9 has a little cover memo from me to my fellow advisory  
10 panel members. If you haven't gotten it, I still have  
11 some extra copies right here if anyone still needs one.

12 If this seems like a little bit of deja vu to  
13 a lot of you, it's because we did, contrary to what it  
14 says in the final Fishery Management Plan which I'm  
15 sure some of you will appreciate how surprised we were  
16 when we saw the final Fishery Management Plan -- this  
17 isn't coming out very well, but you'll notice that in  
18 the Fishery Management Plan it concludes that on this -  
19 - specifically on this cap issue that the AP has not  
20 had an opportunity to address this issue in light of  
21 the 1999 quota increase and NMFS would appreciate any  
22 insight the AP may provide.

1                   Well, in fact, I think we did do that to the  
2     tune of about 25 pages on February 24th. We knew about  
3     the quota increase in November of 1998, we knew about  
4     the proposed cap on January 20th, 1999, and on February  
5     24th we got together and clearly I was prepared and I  
6     think we had 25 pages of pretty good discussion with  
7     about 14 members of the advisory panel clearly stating  
8     their preference at that time, and the majority of  
9     those advisory panel members were advising the agency  
10    at that time that the cap was the wrong way to go.  
11    Nonetheless, we ended up in the final Fishery  
12    Management Plan with the cap.

13                  That also kind of ignored pretty much the  
14    weight of sentiment at the public hearings that were  
15    held in New England from Fairhaven to Gloucester, the  
16    two hearings in Maine, the public comment was  
17    demonstrably in favor of not putting a cap in place on  
18    the purse seiners but, nonetheless, we ended up with  
19    that.

20                  We can look at the rationale for the cap for a  
21    minute and it's changed a little bit from the draft.  
22    There were really three points back in February. One

1     was this point about, well, the cap might help reduce  
2     competition and conflict. That's sort of been dropped  
3     in the final FMP and the scientific monitoring argument  
4     is clearly in the background.

5             But what remains is that the reason why we're  
6     putting this cap in place on the purse seiners is that  
7     because they have this IVQ (phonetic) system they're  
8     basically insulated from competition and therefore the  
9     cap at 250 is not going to hurt them.

10            Well, from our perspective, that totally  
11     misses the mark. The competition for the purse seiners  
12     is not just amongst themselves which, by the way, there  
13     is competition among themselves in terms of the timing  
14     of their catches. They struggle quite a bit in their  
15     very short season to make sure that they're not putting  
16     fish on top of each other.

17            But the reality is where they're really in  
18     competition is that 60 percent of the United States  
19     quota coming from the general category, the longline  
20     category, the harpoon category, anything that's going  
21     into the export market is direct competition for the  
22     purse seine fleet. So as long as that quota is

1     increasing and their cap -- and they're frozen with  
2     some sort of a cap, they are at a disadvantage and  
3     eventually it's going to put them out of business.

4             And to show you that, and I distributed this  
5     all around the table, there's a couple of tables that  
6     you'll see. And it goes like this. Basically, there  
7     is three scenarios for the future that we're looking at  
8     on this table, and the current one is that is the  
9     status quo.

10            We've got a 2,500 ton quota and with the cap  
11     the seiners basically are losing 8 tons right now. And  
12     even at this level, that's about \$150,000 of gross  
13     stock. You've heard from a lot of the crew members  
14     last night that they had a 40 percent reduction in  
15     their income last year just from the devaluation of the  
16     yen versus the dollar, and anything, whether it's  
17     hundreds of dollars or thousands of dollars that  
18     they're losing in income, they're certainly going to  
19     put them at a significant disadvantage. And even at  
20     this current level there is a problem with that.

21            But where it really gets serious is as the  
22     recovery plan proceeds, and you'll notice in the

1 Fishery Management Plan there's actually a new model by  
2 NMFS that hasn't been looked at by ICCAT or SERS or  
3 anybody, but it's a new one since the draft FMP and  
4 since the meeting last fall that basically says maybe  
5 BMSY's 3,400 metric tons rather than the 2,800 tons  
6 that SERS was talking about last year and that  
7 underlines the recovery plan.

8 Well, and this is just theoretical of course,  
9 if we do get to the 3,400 ton level, the U.S. share is  
10 going to rise to 1,773, and here is what happens. The  
11 general category will go to 835, the purse seiners  
12 would be capped at 250, the longline increase to 144,  
13 harpoon category at 69. And at this level I think  
14 you've got to look seriously at whether or not you're  
15 putting the purse seiners right out of business.

16 What happens is you're basically adding about  
17 200 tons to the general category but you're also up the  
18 reserve to 124 tons. That amount of quota, almost 300  
19 tons, could very well see -- well, it's certainly going  
20 to see a significant increase in the amount of fishing  
21 by the general category in August and September, which  
22 is the prime season for the purse seiners to put their

1 -- that's their window when typically they try to put  
2 fish on the market without hurting anybody else.

3           If they don't have -- obviously, that  
4 increased quota in addition to the increased Canadian  
5 supply -- when our quota goes up, the Canadian quota is  
6 going to go up as well and that is going to be  
7 additional product on the market -- the price is going  
8 to come down and they're not going to have volume in  
9 order to be able to compete with the other user groups.

10           So I would suggest that even at the 3,400 ton  
11 level you have basically put the purse seiners out of  
12 business. At BMSY according to the Beveridge & Holt  
13 model, 7,700, again the U.S. quota is going to go up to  
14 4,015, the general category is going to be at 1,891 and  
15 if you keep the seiners cap you can watch the  
16 longliners at 325, the harpoon category at 157.

17           Clearly you're going to keep a lot of the most  
18 efficient fishermen in the harpoon category tied up in  
19 the harpoon category. There is going to be production  
20 coming throughout the traditional season that was the  
21 purse seiners and them stuck at the 250 ton level.  
22 These are very expensive boats that they're operating.

1 They're not likely to be able to compete in that  
2 (inaudible).

3 I can't see. Can you stand up?

4 MR. HUETER: Can I ask a quick question, Rich?  
5 Bob Hueter. I'm not familiar with the rebuilding  
6 schedules on tuna. What sort of time frame to the  
7 accepted models indicate that we might be getting these  
8 numbers because if we're talking 20 years away isn't  
9 this whole discussion rather academic? You could  
10 modify the rule, you know, if it's years and years  
11 away.

12 Are we talking about next year, you're talking  
13 about? Are we talking about ten years, 20 years?

14 MR. RUAIS: Number one, Bob, the cap is  
15 intended as a permanent feature. There is no  
16 suggestion in there of a sunset at any point in time,  
17 so the time frame here is really irrelevant to that.  
18 We're expecting that if a cap was in place it's not --  
19 it's simply not going to be removed.

20 In terms of the timing of the recovery plan,  
21 Dave and I could spend the rest of the day arguing  
22 about when we're going to get to any future level, and

1     he might argue that at the current level we're never  
2     going to get any higher than the current level or 2,800  
3     tons.

4             Our view, of course, is that if you look at  
5     Atlantic wide, if you look at even in the FMP which  
6     acknowledges all the uncertainty about stock structure,  
7     migration rate, how recruitment is being handled, I  
8     would argue that we're a lot closer to 3,400 right now  
9     than certainly Dave would expect we are. And 7,700, I  
10    think that's within certainly the life span of most of  
11    the people in this room. I hope to see that.

12            Whether at that time there's a line in the  
13    middle of the Atlantic Ocean calling it a west and  
14    inland folder or whether it's an Atlantic wide folder,  
15    that the United States is sharing in some significant  
16    portion of that, I think that's really not the issue at  
17    this point in time.

18            The point is that the cap is there and  
19    whatever increases as we move to the future, I don't  
20    think it's going to take a heck of a lot of increase to  
21    take the traditional fishery and put them at a great  
22    economic disadvantage and take them out of the fishery,

1 basically.

2           So, anyways, the last point I wanted to make  
3 about this is you'll note that what happens is when you  
4 do cap the seiners and the quota goes up, you're not  
5 keeping them at 18.6 percent of the quota; you're  
6 reducing them to 14.1 under 3,400 and then they drop to  
7 6.2 percent of the historical share.

8           And one of the things that I find fairly funny  
9 about this, a little bit funny about this, is normally  
10 the agency is very encouraging of limited entry  
11 programs and IVQs, ITQs, and it's certainly for  
12 fisheries where they think it most appropriate.

13           But here's a case -- and there are some other  
14 candidates in the bluefin fishery like the harpoon  
15 category, even certain aspects of the general category,  
16 Peter and I had talked about there might be some  
17 benefit to moving in certain directions there.

18           But here the message that the agency is  
19 sending is if you are -- if you do have a limited entry  
20 program, then certainly do not consider yourself a  
21 candidate for more quota as quota comes along because  
22 you're now insulated from competition and the only

1 groups that are going to get quota are the derby  
2 fisheries. So I think that's the wrong message that we  
3 want to send.

4 A PARTICIPANT: (Inaudible.)

5 MR. RUAIS: Go ahead. I'm listening while I  
6 search here.

7 MR. DUNNIGAN: Corky Perett.

8 A PARTICIPANT: Yeah. Your first note there  
9 relative to the cap on the bottom -- I'm trying to read  
10 it. But in essence, the cap on the purse seine -- can  
11 you pick it up a little? Thank you. The cap on the  
12 purse seine and if indeed you get any kind of increase  
13 and their proportionate share goes down to whatever  
14 those percentages are, I assume then likewise the other  
15 categories their percentages would all go up.

16 Is that a correct assumption?

17 A PARTICIPANT: That's correct.

18 A PARTICIPANT: So that's the only user group  
19 or the only gear type that would be restrained?

20 A PARTICIPANT: The percentage share wouldn't  
21 go up. The absolute figure for the remaining  
22 categories would go up.

1           A PARTICIPANT:   Would go up.

2           A PARTICIPANT:   The purse seine category's  
3   percentage share would go down and their absolute  
4   number would stay the same.

5           A PARTICIPANT:   Thank you.

6           MR. DUNNIGAN:   Irby.

7           MR. BASCO:   Thank you.   One question I have,  
8   if the U.S. share or quota would happen to go down,  
9   would the cap remain the same?   The purse seiners still  
10   will get the 250 tons?

11          A PARTICIPANT:   No, that's the -- the way it's  
12   worded is the purse seiners's share was 18.6 percent of  
13   the quota or 250, whichever is less.   So if the quota  
14   drops to 2,000 they would get 18.6 of 2,000.   They  
15   would be required to take the reduction, take their  
16   proportional share of the reduction, but they get no  
17   proportional increase in any benefit -- recovery  
18   benefit.

19          A PARTICIPANT:   Well, I just wanted to clarify  
20   that.   I've read that.   Thank you.

21          MR. RUAIS:   Okay.   Now I'd like to turn a  
22   minute to the question of whether or not the cap is

1 consistent with the objectives of the Fishery  
2 Management Plan that we now have in place. And just  
3 coming back from an ICCAT meeting for the last four  
4 days that dealt with allocation criteria, I think I've  
5 got a handle at being able to pick out those objectives  
6 that have some obvious allocation criteria.

7           And in this case, we're looking at basically  
8 three management objectives, as I see it, and aside  
9 from the question of the national standards that have  
10 direct implications on allocations.

11           One is to minimize to the extent practicable  
12 economic displacement and other adverse impacts on  
13 fishing communities. And obviously, as I've said, if  
14 this is going to take the seiners completely out of the  
15 fishery then that's the maximum economic dislocation  
16 that you can do and that's not consistent with that  
17 objective at all.

18           Before I leave this, just to show you, the  
19 corollary of that, if you will, is that if you don't  
20 have the cap in place you'll notice -- and leave the  
21 seiners in and let them have their proportional quota  
22 increase, it's pretty hard to argue that any other

1 group would be displaced by the purse seiners. They  
2 simply would get their equivalent share.

3           You're not reducing the general category in  
4 any way. The only thing you're doing, according to the  
5 NMFS plan, is you're reducing the total amount of fish  
6 that's in the reserve. Instead of having 500 tons when  
7 you're up to 7,700, there's only 100 tons. But the  
8 angling category retains its 791, the general category  
9 retains its 1,891.

10           So the point is that without the cap you can't  
11 make the argument that anyone else is getting displaced  
12 from the fishery.

13           Now back to the objectives. The second  
14 objective talks about preserving traditional fisheries  
15 and, again, the cap, to the extent that it's going to  
16 take the purse seiners right out of the fishery it  
17 certainly is inconsistent with this objective.

18           And in terms of looking at this fishery as a  
19 traditional fishery, from 1968 to 1981, beginning  
20 almost 30 years ago, the purse seine boats accounted  
21 for upwards of 70 percent of the U.S. total catch by  
22 weight, so that's a fairly dominant historical

1 traditional fishery.

2 In addition to that -- you've heard this  
3 mentioned many times, we talked about this in January  
4 1998 -- back in 1982 when the western Atlantic quota  
5 was first being developed, you had the U.S. arguing for  
6 the base period for the allocation they wanted it to be  
7 -- this was Carmen Blonden (phonetic) at the time.

8 They argued -- we argued for 1970 through 1974  
9 as the base period, and basically we won that argument  
10 at that time and that resulted in the United States  
11 getting 52 percent of the western Atlantic allocation.  
12 Clearly we got the dominant share.

13 And the point of this is that if you look at  
14 who was catching fish at that time in the '70s, early  
15 '70s when the fish was just starting to become  
16 valuable, you can see that the purse seiners from 1970  
17 out of a total U.S. catch of 3,700 the seiners were  
18 responsible for 3,127. On and on to the extent that  
19 over that five-year period the traditional seine  
20 fishery had 59 percent of the U.S. catch, and it was  
21 that bulk of the catch that was getting us our 52  
22 percent.

1           And I would also just point out, if you look  
2   at 1973 and '74, you see a declining purse seine catch.  
3   That was their voluntary movement to reduce their  
4   catches because there was concern beginning to develop  
5   for the resource. There was no statutory authority.  
6   ATCA was in the works but it wasn't done. ICCAT was up  
7   and just beginning to run.

8           The concerns were becoming clear. And the  
9   seiners voluntarily agreed, while their Canadian  
10  counterparts were running wild with big catches, the  
11  U.S. fleet agreed to voluntary quotas to begin the  
12  conservation program.

13           MR. McBRIDE: Rich, may I ask a question on  
14  shark, please?

15           MR. DUNNIGAN: Go ahead, Joe.

16           MR. McBRIDE: In those years, '70 to '74, the  
17  purse seine catch consisted of giants or school fish?

18           MR. RUAIS: I believe it was a combination at  
19  that time. They didn't give up the small fish fishery  
20  entirely till 1982; '81 was the last year that they --

21           MR. McBRIDE: Let me be more specific. Was  
22  the bulk of the fish caught in the provided purse

1     seiners in those years the school fish or the giants,  
2     and the giants almost being incidental; their gear was  
3     rigged, as I have been told and seen in many times, for  
4     skipjacks with an incidental catch of school bluefin  
5     tuna. I'm not knocking it. That's just the way it  
6     was. They later on switched over to the giants, which  
7     is another story we can get into down the line.

8             My point being that you're only counting here  
9     landings and the only ones that really counted landings  
10    in those days for the most part were the purse seiners  
11    because they were selling them basically for  
12    inexpensive, whatever, type of food.

13            So I'm glad they did and I'm glad we got a  
14    U.S. quota based on that, and I'm not knocking that per  
15    se, but let's get the history straight so everybody on  
16    the panel knows we weren't talking about 3,127, you  
17    know, fish or tons, whatever that may be, of giants.  
18    We're talking about bluefin tuna.

19            From that basis the U.S. in negotiations was  
20    able to get the breakdown for bluefin in general. We  
21    transformed that from a fishery that had a value on the  
22    school fish into a value only on the giant fish or the

1     general category fish.

2                 Now, another factor here in this, I would  
3     assume that the reason we used the purse seine catches  
4     in those days, that's a traditional and long historical  
5     before 1970 sport fishing for bluefin schools and/or  
6     giants were never recorded either by the agency or had  
7     no proof of recording other than the sale of fish and  
8     including, by the way, up until probably the late '80s  
9     the sale of school bluefin, much of which was done  
10    without major recording whether it's back door sales to  
11    -- whatever the case may be because in those days it  
12    was perfectly legal to sell and feed and use school  
13    bluefin as well as giants and so forth and so on.

14                So I don't know if I'm clear to everybody  
15    here, this fishery was historically not a giant tuna  
16    fishery; it was a school bluefin fishery in conjunction  
17    with the unrecorded and, in my opinion, far greater  
18    angling category fishery for school bluefin prior to  
19    1970 and prior to the purse seine boats coming to the  
20    east coast.

21                MR. RUAIS: Just two quick points. One, I  
22    don't know the answer to exactly what the breakdown was

1 but there are some people in the audience who could  
2 probably tell you after exactly what they think, what  
3 they recall they were catching in terms of giant. I  
4 would point out that in '70-'71-'72, that's when the  
5 giants were becoming very valuable and the seiners were  
6 beginning to focus a lot more on the large fish. What  
7 the breakdown is, I don't know.

8 In terms of the recording of the sport fish  
9 catch, they were being recorded back then. In fact, if  
10 you look, in 1973 and in particular in 1974, the  
11 difference between the purse seine catch and the total  
12 U.S. catch is basically sport fishing catch at that  
13 time, a combination of juvenile fish in the angling  
14 category and in terms of our harpoon fishery and the  
15 rod and reel fishery that was taking place. Catches  
16 were recorded right back through the '60s and '50s on  
17 the recreational catch and you can see it operating  
18 anywhere, Joe, from 300 to 1,500 tons.

19 We don't deny there is significant sport  
20 fishing catches of all sizes of billfish. My only  
21 point is, Joe, the period that was used for the  
22 allocation breakdown in the western Atlantic was the

1     period 1970 through 1974 and the catches that the U.S.  
2     had on record are reflected here.

3             MR. McBRIDE: But another definition here too,  
4     Rich. Let's take the year 1971. You had a purse seine  
5     catch of 2,800 and some odd fish and you had a total  
6     U.S. catch of 4,100. The difference there of  
7     approximately, what is that, 1,300 fish give or take,  
8     were fish sold even in the angling category, not fish  
9     that were caught and retained by the anglers in general  
10    who did not sell them.

11            Is that correct?

12            MR. RUAIS: I don't know the breakdown  
13    (inaudible).

14            MR. McBRIDE: Well, I'm not trying to -- what  
15    I'm trying to say is this, that the history here in  
16    figures is not necessarily the correct history. If  
17    it's in sale of school fish in addition to the sale of  
18    the purse seine catches, whether they be school or  
19    giants, that figure of 4,119 could very well have been  
20    12,00 and what have you, depending on your assessment  
21    of what the -- because I remember those years.

22            I remember what we caught in school fish that

1     were a pest in those days.  You were trying to get past  
2     them to get out and get yellowfin tuna and you were  
3     hooking them up like you did bluefish when you're bass  
4     fishing.  And so but those fish were not sold to  
5     anybody.  A couple were taken home by the anglers or  
6     maybe many were taken home by the anglers.  It was not  
7     a salable fish, generally speaking, in my area  
8     geographically.  I don't know what went on in New  
9     England or any place else.

10                 But 4,119 were sold fish.  Is that correct?

11                 MR. RUAIS:  (Inaudible.)

12                 MR. McBRIDE:  No?  Yes?

13                 MR. RUAIS:  The answer is I have no idea what  
14     proportion.  I can only tell you there was no  
15     restriction on sale of any bluefin back then.

16                 MR. McBRIDE:  I understand.

17                 MR. RUAIS:  If the angler wanted to sell his  
18     catch in any downtown fish market --

19                 MR. McBRIDE:  I'm just trying to figure out  
20     where you got the figure 4,119.  Was it from  
21     (inaudible) surveys, was it from the landings as you  
22     were in purse seine?  Purse seine is sale.  Tagged fish

1 or whatever, the landing figure?

2 MR. RUAIS: These landings come straight off  
3 the ICCAT total catch of Atlantic bluefin tuna from 19  
4 -- the table that you'll see in the back of every stock  
5 assessment -- now it starts around 1975 but if you go  
6 back a few earlier stock assessments, it goes all the  
7 way back to '62 where you can just look at the U.S.  
8 catches and it breaks it down by purse seine gear, by  
9 rod and reel, and then there is another unclassified  
10 category as well that there's a few hundred tons in.  
11 Straight, ICCAT NMFS-produced documents. Nothing that  
12 I maintain, no database that I maintain.

13 MR. DUNNIGAN: I think we need to let Rich  
14 finish up his presentation and then, Ray, you'll be the  
15 first commenter.

16 A PARTICIPANT: (Inaudible.)

17 MR. DUNNIGAN: Well, you'll get your -- why  
18 don't you take the chance to do that when he finishes,  
19 please. Thank you.

20 MR. RUAIS: Okay. The final objective that I  
21 think has implications from the allocation perspective  
22 is the one that talks about the better coordinate

1     (inaudible) is a little fuzzy but the concerns are in  
2     there about historical fishing pattern and  
3     participation.

4             And, frankly, I think this protects the  
5     angling category and it protects all of us in the  
6     United States. And as you heard from my president  
7     yesterday, we support all of the U.S. historical  
8     fishing categories.

9             And the fishing pattern when, for example, the  
10    Canadians might argue that the United States ought to  
11    give up its small fish fishery in the interests of a  
12    faster conservation program, the answer is no, that's  
13    part of our objective, that's part of the ICCAT  
14    objectives and maintain traditional fisheries and to  
15    maintain the historical fishing pattern, just as  
16    recreational and commercial catches of small fish are  
17    part of the historical fishing pattern, so is the  
18    commercial purse seine net fishing for billfish tuna.

19            And that's one of the reasons why we want to  
20    keep it. And, again, we show if you cap the seiners  
21    you are not going to be preserving that historical  
22    fishing pattern. In fact, as Elden Greenberg mentioned

1     in his comments yesterday, you're going to be grossly  
2     distorting that pattern and eventually eliminating that  
3     pattern, changing that pattern.

4             So, anyway, that's the point about the  
5     objectives. The only other point I'd make about the  
6     objectives is that you'll notice that there is no  
7     objective in there that talks about excessive share.  
8     If you want to go to the national standards on that,  
9     that's fine, and we discussed that. If you look at the  
10    transcript of the last meeting we discussed quite a bit  
11    the issue of excessive share or fair share, and Peter  
12    always refer to what is in the Magnuson Act the  
13    equitable requirement or mandate, if you will.

14            And the point I would make about equitable  
15    that allocations have to be equitable, fair and  
16    equitable, is that I think Congress chose the word  
17    equitable very carefully. And we had this discussion  
18    in Spain recently again on the allocation criteria  
19    meeting. Equitable doesn't mean equal, and it was  
20    chosen very carefully. It talks about reasonable in  
21    judgment. That is what equitable is all about.

22            And we would argue that in 1982 when the

1     agency established the purse seine category at 386 tons  
2     that was equitable. It was reasonable in judgment at  
3     that time looking at the volume, the proportionate  
4     share that they had of the overall U.S. quota at that  
5     time, and clearly they've been reduced substantially  
6     since that time down to 301 and 250.

7             And this equitable concept protects highliners  
8     in all U.S. fishing categories, not just the purse  
9     seiners. It's why in the general category we can see a  
10    range from anywhere in some years from 40 fish a boat  
11    down to 1 fish a boat. In the harpoon category we can  
12    see highliners catching 62 fish a year and we can see  
13    people on the lower end as well. In the charter boat  
14    category I suspect we're seeing the same thing. The  
15    private recreational boat fisheries.

16            Clearly it's not equal fish per person, it's  
17    equitable share. It's what you get under the rules,  
18    and that's the context that we would ask the advisory  
19    panel to keep this issue in mind.

20            I have more but I know I've taken up a lot of  
21    time so I'm going to stop right there. But I would  
22    point out that the objectives do not support this cap

1     and I think the objectives support a framework  
2     regulatory action to eliminate the cap. I think this  
3     advisory panel made that case to the agency back in  
4     February.

5             I think more of us were supportive of that  
6     than were not. You can look at the transcript yourself  
7     and do your own count if you want. I hope that again  
8     today we can maintain the same message to the agency  
9     that we do not want this cap in place and if they need  
10    to put a framework regulatory action in place as soon  
11    as possible.

12            That concludes what I wanted to tell you, but  
13    I did want to also point out that one other failing in  
14    the FMP that I've noticed is that in doing anywhere --  
15    in doing any fishery management plan for highly  
16    migratory species, one section of the Magnuson Act  
17    requires -- if you could turn the lights on -- requires  
18    that the agency do a consultation with ICCAT  
19    commissioners, among other groups including this  
20    advisory panel. And when we negotiated this agreement  
21    last year and came away with 43 additional metric tons,  
22    obviously our commissioners were greatly involved in

1     that whole process of negotiating it.

2             And I don't think that NMFS has ever formally  
3     consulted with the commissioners as to their view about  
4     what that 43 tons is all about. I think we have one  
5     commissioner, Glen Delaney, that's in the room. I  
6     would like to ask him in the form of that consultation  
7     what he thinks about the 43 tons. If you wouldn't mind  
8     giving an answer. I thought I'd put him on the spot.

9             MR. DUNNIGAN: Do you want to do that right  
10    now, Glen, or do you want to --

11            MR. DELANEY: (Inaudible.)

12            (Laughter.)

13            MR. DUNNIGAN: Rich, why don't you tell Glen  
14    what you want. Let's go back to Rich. Rich.

15            MR. RUAIS: Okay. I have asked you for a  
16    consultation on what you thought the intention of the  
17    commissioners were, at least --

18            MR. DELANEY: (Inaudible.)

19            MR. DUNNIGAN: You're prepared? Ray, is that  
20    okay? Thank you. Go ahead, Glen.

21            MR. DELANEY: (Inaudible.) I just want to say  
22    that I am here as a U.S. commissioner to ICCAT

1 responsible for the commercial fishing industry  
2 perspective. And I want to say I am very, very,  
3 appreciative of having this opportunity to say  
4 something about this issue and some others I think.

5           And the only reason I want to do this is  
6 because I think they have some very direct bearing on  
7 my job as a commissioner. And for what it's worth, I  
8 would like to have the opportunity to share with this  
9 group how what you are considering and what NMFS has  
10 proposed has some bearing on my job as a commissioner.

11           You have other responsibilities here and to  
12 the best of considerations that are not necessarily the  
13 point of my issue here, but I do think it has some  
14 bearing on the institution of the U.S. commissioner  
15 position and responsibility, and so that's why I ask  
16 you to bear with me and consider it. I think it's  
17 relevant and, you know, not to make a point of it, I  
18 guess I would also point out the law does require that  
19 you have to consult with me. Like it or not, maybe  
20 this is the best chance to do that.

21           As a U.S. commissioner my job is to negotiate  
22 fishery agreements on behalf of the U.S. which become -

1     - and this is for Miriam's benefit -- if not the law of  
2     the land in the sense of a treaty, it certainly becomes  
3     an international obligation of the United States, at  
4     least in my understanding. I feel I am also certainly  
5     responsible -- I have a dual role -- to insure that the  
6     interests and perspectives of U.S. commercial fishing  
7     interests are fully considered in such negotiations. I  
8     just put a cough drop in my mouth so I'm juggling that.

9                 In November 1998, I and one of my colleague  
10    U.S. commissioners, Rawley Smitten, at a delegation  
11    negotiated with Japan and Canada and ultimately all  
12    parties at ICCAT a 20-year rebuilding plan for billfish  
13    tuna. And as in most, if not all, ICCAT agreements we  
14    negotiate, there are always domestic implications and  
15    considerations which are fundamental to our U.S.  
16    position and objectives. I know that all nations have  
17    this.

18                I mean, we're always thinking about what are  
19    the domestic ramifications of the position that we  
20    advance at ICCAT. Of course, all nations have that  
21    responsibility. In fact, in many ways, the underlying  
22    domestic considerations drive much of the negotiation.

1                   However, because ICCAT is an international  
2   body, such nation-specific domestic considerations  
3   shared by all nations are not reflected in writing in  
4   ICCAT documents. And they are agreements, they are  
5   resolutions, and there are recommendations.  
6   Nevertheless, understandings within the U.S. delegation  
7   are reached and are, in my opinion, every bit as real  
8   and valid as a U.S. obligation as the written text  
9   itself.

10                  So was the case with the 20-year rebuilding  
11   plan for billfish tuna in 1998. It contained  
12   provisions which had several profound domestic  
13   implications and considerations and these implications  
14   were quite fully and openly discussed, certainly by  
15   myself and Mr. Smitten as another commissioner, the two  
16   of which negotiated this particular agreement with  
17   Canada and Japan.

18                  And two of these domestic implications or  
19   considerations that we very fully discussed at ICCAT  
20   and which were therefore part of our considerations in  
21   negotiating the specific terms of that agreement, are  
22   the following.

1           The first I would like to mention involved the  
2   issue that I think you're talking about now, which was  
3   the domestic distribution of the 43 tons of additional  
4   U.S. quota that was negotiated as part of that  
5   agreement with Japan and Canada.

6           And then the second one was the distribution  
7   of what I believe were 68 tons of the U.S. dead discard  
8   quota. Did I get that number right? I think it's 68  
9   tons also negotiated as part of that agreement. I know  
10   you're not here to talk about the dead discard quota  
11   but it was part of the same discussion so I bring it up  
12   and point it out.

13           But in both cases it was my unambiguous  
14   understanding that the conclusion of the two  
15   commissioners who negotiated this agreement was that  
16   such quotas in both cases should be distributed  
17   proportionately to the various U.S. sectors according  
18   to the current percent distribution of direct quota.  
19   Maybe I didn't say that quite right, but you know what  
20   I'm thinking. You understand what I'm saying.

21           I'm not here to argue whose understanding was  
22   what. I'm just here as one U.S. commissioner to

1 reflect what my understanding was.

2 I was also advised that this intent and  
3 understanding of at least those two commissioners,  
4 including myself, was directly communicated to the  
5 National Marine Fisheries Service Highly Migratory  
6 Species Division, and those responsible for writing  
7 this proposal before us. And I do believe that was in  
8 fact the case. Perhaps I'm wrong.

9 Therefore, the question that sort of plagued  
10 me last night kind of reflecting on the day was, among  
11 other things, was actually on this particular issue why  
12 we are here. Why did NMFS specifically reject the  
13 express intent and understanding of the commissioners  
14 that negotiations this particular agreement?

15 Again, it's not reflected in writing, of  
16 course. It can not be in an ICCAT document. But the  
17 question further was, you know, what profound  
18 conservation and policy considerations or concerns  
19 should cause the agency to so directly and specifically  
20 reject or override what the commissioners intended, and  
21 apparently according to some testimony I heard  
22 yesterday, rejecting what the Magnuson Act requires.

1           This is important and important to me. It's  
2   important, of course, as we heard to the purse seiners,  
3   but very important to me as a U.S. commissioner and the  
4   institution of the commissioner position.

5           We are asked as commissioners to negotiate  
6   agreements which not only advance conservation  
7   objectives first and foremost, but also advance and  
8   protect U.S. domestic interests. Because we can not  
9   put into ICCAT written documents what our  
10   understandings are with respect to such domestic  
11   interests, we have to rely on the trust and the good  
12   faith of the implementing agency to try to faithfully  
13   reflect in their regulations what the U.S.  
14   commissioners intended as a basis for their negotiation  
15   and agreements.

16           If we can not rely on that good faith from the  
17   agency this commissioner will find it extremely  
18   difficult to effectively function in the future because  
19   I don't have an ability to ensure that the domestic  
20   considerations which are a basis of what I negotiate  
21   will ever be reflected faithfully by the agency.

22           Now, again, if there is some profound

1     overriding policy or conservation consideration or  
2     concern that would justify rejecting our intent, that  
3     may be very appropriate. I'm not trying to suggest  
4     that -- and I'm sure I feel Gary over here starting to  
5     -- I'm not trying to suggest what the commissioners say  
6     or intend at ICCAT is the obligation of NMFS to  
7     implement. Of course not.

8             But I would hope that it would be something  
9     that they would seriously consider since we have to go  
10    -- we have the obligation of going and negotiating on  
11    behalf of the agency and negotiating on behalf of the  
12    people in this room.

13            And if it's our understanding that something  
14    will be implemented in a certain way in the United  
15    States and having that confidence that that will be the  
16    case, therefore I can go forward with a position and  
17    negotiate it with other countries and put that into  
18    writing, if I can't rely on that I'm going to be very  
19    hesitant to put my neck out and commit to anything. So  
20    I don't know what's it's going to do to our people.

21            But again, there may be an overriding  
22    conservation concern which would certainly justify

1     overriding what our intent was. We may not have  
2     reflected on something. We may not have thought of  
3     something. As negotiations are intense and heated and  
4     fast-paced, we're not thinking of everything and, sure,  
5     we may have not considered something very important  
6     from a conservation or policy standpoint.

7             But if there is that overriding policy or  
8     conservation concern that would cause the agency to  
9     reject what we thought we intended and what I thought  
10    was communicated to the agency, then I'd like, just as  
11    one U.S. commissioner, to know what that was so that I  
12    understand that in the future it was only because of  
13    some extraordinary circumstance that our intent was  
14    specifically rejected. If there is no overriding  
15    consideration then I'd like to know why the agency even  
16    went down this road in the first place.

17            The last thing I'd like to mention, and I kind  
18    of heard through my third ear that perhaps Rich Ruais  
19    mentioned, was that I just returned -- several of us  
20    just returned from an important ICCAT intercessional  
21    meeting to negotiate an ICCAT-wide set of criteria for  
22    allocating ICCAT species among ICCAT nations. This is

1 sort of the same -- this is a microcosm on a larger  
2 scale.

3           The results of these we're now going to be  
4 continuing negotiations as well recognized by the  
5 representatives of many ICCAT nations at our meeting  
6 last week, I believe, will set a powerful precedent for  
7 other international fishery management fora. I think  
8 it was well understood what whatever we do at ICCAT on  
9 international allocation criteria is going to be  
10 something that sets the stage for fishery management  
11 fora worldwide. This is important stuff.

12           Among the three top priorities for the United  
13 States as articulated by the head of our delegation was  
14 historical catch. In fact, the theme of virtually all  
15 of the major developed fishing nations at ICCAT  
16 advanced as either their number one or one of their top  
17 criteria the consideration of their historical  
18 participation in the fishery as a basis for determining  
19 what their future allocations or quota shares should  
20 be.

21           And I guess it is at least troubling to me as  
22 a U.S. commissioner to be asked by our government to

1     advance a position, policy, internationally, in this  
2     context historical catch, only to have the same  
3     government agency advance what would appear to be or  
4     apparently a contrary policy position at home.

5             You know, my only concern is that it certainly  
6     would tend to undermine our credibility at ICCAT if we  
7     have conflicting policies at the domestic and  
8     international level, and again that sort of reflects on  
9     my job.

10            So those two issues I bring up are really  
11     selfishly motivated from the perspective of being a  
12     U.S. commissioner and I appreciate you at least taking  
13     that into consideration. I know this is a very  
14     different issue and a different consideration for you  
15     to make and I appreciate you bearing with me to go  
16     through this. Maybe it's not important but I'd like to  
17     have the opportunity to share my views.

18            Thank you very much.

19            MR. DUNNIGAN: Thank you, Glen. Other  
20     comments from advisory panel members on what we've  
21     heard so far this morning? Peter Weiss.

22            MR. WEISS: You know, the issue here has been

1 the issue right along, notwithstanding the cap or quota  
2 share or anything else. I think the issue is what some  
3 people consider fairness. And when you know some of  
4 the facts of, or when you think about some of the facts  
5 of how the fishery is structured today and how it got  
6 to where it is, maybe you can think about the problem  
7 differently or maybe you can't. It isn't really that  
8 critical.

9 I think the reason there was a cap put on here  
10 was the fact that, in talking about a limited entry, we  
11 have several categories in this fishery that have  
12 unlimited entry. We have over 10,000 permit holders in  
13 the general category today. Tomorrow we could have  
14 15,000 permit holders in the general category. I don't  
15 know how many permit holders are in the angling  
16 category. I think there's 18,000 or something like  
17 that. And they keep on growing.

18 And I guess with the inability of NMFS to want  
19 to, and I don't know whether we want to or not and  
20 that's not -- we're not making a comment on limited  
21 entry -- of limiting the entry in these categories, I  
22 guess they've taken the tack of limiting the growth of

1 the one category that has a limited entry, and that's  
2 the purse seine category. There are five boats that  
3 fish that category and I don't know if there are three  
4 permit holders, four permit holders, or how many but  
5 there certainly aren't more than five who are getting a  
6 pretty fair share of the fishery and make a pretty good  
7 living at it, I would suppose, in the time frame of  
8 four weeks or three weeks or five weeks of fishing.

9           So you've got 10,000 permit holders who are  
10 fishing, you've got a fishery where -- and they're all  
11 considered commercial by the way because if you own the  
12 general category you've got a commercial permit and  
13 you're considered a commercial fisherman, who I'd say  
14 95 percent of them are having a hard time making a  
15 living at this game because of the limited quota versus  
16 a purse seine fishery which, granted last year was not  
17 as lucrative as it was the previous years due to the  
18 prices of fish in Japan, but the same thing goes for  
19 the general category fishermen. I can well attest to  
20 that.

21           So I think that's the reasoning behind, I  
22 guess, this purse seine cap. I would like to ask Rich,

1     you know, as far as your numbers here under U.S. share  
2     in the general category of 1,891 tons at 7,700 metric  
3     tons, and then you say it doesn't change if the purse  
4     seine category gets taken off.

5             Is that correct, the general category doesn't  
6     change?

7             MR. RUAIS:  (Inaudible.)

8             MR. WEISS:  But -- yeah, I'm sorry.  Go ahead.

9             MR. RUAIS:  Thank you.  The 1,891 doesn't  
10    change if you don't have the cap in place.  It just  
11    comes out of the reserve which is what the cap policy  
12    does right now is whenever there is an increase in  
13    quota it sends what would be the purse seine category  
14    share, about 250, it sends it into the reserve, so to  
15    that extent.

16            Now, if you want to take it out of the reserve  
17    and put it in the general, then --

18            MR. WEISS:  That's right.  I mean, that's the  
19    point that you didn't make.  I mean, that reserve does  
20    not stay in NMFS' pocket, I would suppose.  I would  
21    suppose they are going to distribute it to somebody,  
22    possibly even the seiners.  You know, I mean we don't

1 know who they're going to distribute it to.

2 But I'd like to make the point that there is a  
3 500 ton reserve that's going to go someplace so it  
4 isn't like it's just going to disappear.

5 Anyway, I think that's, in a nutshell, why  
6 there is a cap. Whether you want to call it equity,  
7 fairness, or whatever else. You've got all fisheries  
8 being unlimited in entry except one, and I would  
9 suppose that's the reason why there was a cap put on  
10 that one. And I would also suppose if there was an  
11 unlimited entry in the purse seine category then by all  
12 rights there shouldn't be a cap in the purse seine  
13 category.

14 Thank you.

15 MR. DUNNIGAN: Steve Loga.

16 A PARTICIPANT: (Inaudible.)

17 MR. DUNNIGAN: Robert Fitzpatrick and then  
18 (inaudible).

19 MR. LOGA: Is sounded like Peter was answering  
20 Glen's question on behalf of the agency. I was  
21 wondering if Gary could speak to Glen's quotas because,  
22 frankly, I think Peter's rationale is straight out of

1 the FMP and it's very much full of holes and isn't  
2 really supported by facts.

3 And I was wondering if Gary could answer  
4 Glen's questions maybe in a more -- if there is some  
5 overriding concern.

6 And the problem with one of the conservation  
7 issues that would tend to tilt things the other way is  
8 when the -- the seiners typically have the largest size  
9 composition in their catch. If they remain static and  
10 the quota goes elsewhere, the recovery will be slowed.  
11 There will be more mortality for every ton that goes to  
12 the other categories. Aside from the issue of  
13 fairness, there is a conservation issue.

14 So, Gary, could you perhaps answer Glen's  
15 questions?

16 MR. DUNNIGAN: I think if Gary wants to do  
17 that briefly that's okay but, you know, what I don't  
18 want us to waste our time on is to get into a lot of  
19 back-and-forth debate over the issue. We want to get  
20 your reaction back to them.

21 So, I mean, that's appropriate but let's not  
22 go too far down that road.

1                   MR. LOGA: Okay. I would just like to hear it  
2 from them.

3                   MR. DUNNIGAN: Thank you. Gary, do you want  
4 to take a second for that?

5                   MR. MATLOCK: I'll try to do it briefly. The  
6 basis upon which we proposed and finalized having a cap  
7 on the purse seine category is in the FMP. I don't  
8 have anything to add to that reasons. It's stated  
9 there. It's very clear, I think, because it's been  
10 restated and I think understood.

11                   It also is our desire, has been our desire and  
12 is today, to see whether or not that reasoning is  
13 supported by the advisory panel or if there is a  
14 different position the advisory panel would like to  
15 take.

16                   We do not think, and we did not think, that  
17 the discussion that went on in February was adequate to  
18 lead us down a path of doing something differently than  
19 what we thought the advisory panel wanted done.

20                   But we recognize that we could be wrong about  
21 our interpretation so we put in the Register what we  
22 put. We're here to get your opinion. If you don't

1     agree with it, if you think there is a different  
2     approach that should be taken, we want to hear from  
3     you.

4                 So I don't have anything to add to what we put  
5     in the Register and is officially out there. I do have  
6     something to add though to Glen's comments but I'll  
7     wait till he's back and do that at a later time.

8                 MR. DUNNIGAN: Charlie Moore and then Corky  
9     Perett. (Inaudible), do you want to follow up? Go  
10    ahead.

11                MR. FITZPATRICK: Yeah. So the rationale that  
12    you're referring to is that in Volume I, Chapter 3,  
13    page 32, there is a paragraph and a half or two?  
14    That's the extent of the rationale? There's no hidden  
15    other stuff somewhere in the document? I mean, because  
16    this is a big document. I didn't read the whole thing.  
17    So it is Chapter 3 in Volume I, page 32.

18                MS. LENT: It starts on page 30, Robert. And  
19    also I would ask you to refer to the comments and  
20    responses section. I think there's a lot of  
21    (inaudible). That's the final rule and in the appendix  
22    to the FMP.

1                   MR. DUNNIGAN: Charlie Moore, Corky Perett,  
2   Mau Claverie.

3                   MR. MOORE: I just had a quick question.  
4   Exactly how does the reserve work? In other words, I  
5   would think that that would be for overages of the  
6   various quotas of the division -- or the various  
7   categories.

8                   But is the fact of taking all this out, is  
9   that sufficient -- is there a sufficient reserve left  
10   to cover the overages and so forth? When is that  
11   redistributed? Is that after the fact or during the  
12   seasons, or how?

13                  MR. DUNNIGAN: Rebecca.

14                  MS. LENT: Right now, and if everything goes  
15   as planned for the next 20 years, the purse seine cap  
16   only adds 8 metric tons to the reserve. But the  
17   reserve is sufficiently large to cover what we think  
18   we'll need for overages.

19                  One of the things we have to be concerned  
20   about now is that we have an allowance for dead  
21   discards of 68 metric tons. If we're over that amount  
22   that has to be taken off of our landing quota in the

1 following year so we're going to be very conservative.

2 Also as laid out in the plan and in the final  
3 rule, there are guidelines that we must follow before  
4 we reallocate through the categories, including taking  
5 quota out of the reserve. So we have to take into  
6 account a lot of different factors, including the  
7 impact on the rebuilding of stock.

8 MR. DUNNIGAN: Corky.

9 MR. PERETT: Thank you. Corky Perett,  
10 Mississippi.

11 MR. DUNNIGAN: Thank you for stating your  
12 name.

13 MR. PERETT: Probably it's been asked for AP  
14 input and since Gary and I have not agreed on anything  
15 for about 20 or 25 years, at least I'm being consistent  
16 I guess responding.

17 First off, I'll just say this. As an AP  
18 member when you've got several categories in a fishery  
19 and I don't care what the specific category is, I think  
20 it's unfair to place a cap on only one segment of the  
21 fishery when you've got several. Fair, equity, so on  
22 and so forth, we can discuss this all day but one group

1 is being selected and I personally think that's not  
2 equitable.

3 MR. DUNNIGAN: Mau Claverie.

4 MR. CLAVERIE: A side issue. Glen mentioned  
5 that the negotiations that started just this week and  
6 will continue to go on about allocations will  
7 eventually lead to a worldwide adoption of some sort of  
8 policies or allocation issues.

9 And since the councils are daily involved in  
10 allocation issues and since the law provides that  
11 councils shall be consulted by NMFS on ICCAT issues --  
12 and this is an issue that will come home to live with  
13 us -- could you please include the councils in the  
14 ongoing what's going on for comments and what not and  
15 also to educate us on this particular area of interest?

16 MR. DUNNIGAN: Rich Ruais.

17 MR. RUAIS: To Peter's earlier comment about  
18 the fish will go into the reserve, and I think Charlie  
19 might have been referring to this a little bit as well,  
20 I'll go way out on a limb and suggest that the purse  
21 seine category has never gotten a pound out of the  
22 reserve since it's been in existence, which is probably

1     since 1982 or '83, and I certainly wouldn't warm our  
2     hearts to think that if you put the fish in the reserve  
3     maybe we'll get a piece of it someday.

4             MR. DUNNIGAN: Robert Fitzpatrick.

5             MR. FITZPATRICK: Some of this is going to be  
6     repetitive, as Rich's initial statement is a pretty  
7     hard act to follow. But if everybody could actually  
8     turn and look at page 32 in Volume I in Chapter 3 it  
9     might be -- okay, NMFS maintains that limiting the  
10    purse seine category to its quota level of recent years  
11    would not unduly impact that category with its limited  
12    entry IVQ system and limited participants, especially  
13    when compared to the intense competition and increased  
14    participation in the hand gear fishery, the IVQ system,  
15    et cetera, et cetera, et cetera.

16            The statements and the rationale simply are  
17    not supported by any facts. Where is the documentation  
18    for this? There is none. There are a few comments  
19    made by individuals but how is it that they are not  
20    unduly affected by this? I can assure you that  
21    competition on the water and, more importantly, in the  
22    international marketplace is intense. And the

1 marketplace, Rebecca, for your side of this thing, is  
2 the most important part.

3 With each increase afforded the U.S. -- and  
4 there will be, we believe, more increases -- the net  
5 economic value of the seine category's production will  
6 decrease because, as the supply goes up the price will  
7 go down. Japan is a very finite marketplace for this  
8 wonderful fish we've got.

9 As the world market gears up for tuna ranching  
10 operations, you will see our window of opportunity in  
11 the fresh market shrink to be smaller and smaller and  
12 smaller. In addition, within increases in the western  
13 Atlantic's quota or whatever quota we may call it  
14 sometime soon, the value of the fish will simply  
15 decrease for everybody. It already has.

16 If you look at yen, yen per kilogram values in  
17 Japan since the early '90s, in my business in 1991 we  
18 averaged 6,400 yen a kilo. Last year we averaged under  
19 4,000. Throw in currency, throw in regulatory stuff,  
20 derby fishing for everybody. It's not just a derby for  
21 the general category, it's a derby for everybody.

22 The bottom line is they will be attritted over

1 the course of time with this cap, and I really believe  
2 that there is nothing to support -- I don't see any --  
3 I haven't heard any rationale that really supports that  
4 they will be unduly affected.

5           If federal employees at HMS, if their salaries  
6 were capped permanently and other federal employees  
7 received their cost of living increases on a yearly  
8 basis, do you think that over the course of 20 years  
9 you would not be unduly affected? I think that you  
10 might and I think that you may feel that you were being  
11 discriminated against if you were singled out in such a  
12 fashion.

13           The most important thing in this is the  
14 marketplace and the value of the fish. It's not going  
15 to go up. It's going to go down. And the idea that  
16 they're not affected, I mean -- you know, I promised  
17 some people I wouldn't say this but -- well, I was  
18 going to say something about the Bill Clinton school of  
19 truthfulness and people graduating with high honors or  
20 failing Economics 101. But, so I guess I said it.  
21 It's just basically a bunch of bunk and it sounds like  
22 a political issue that's driven by a few individuals in

1     our fishery.

2                   And as advisory panel members here, we can put  
3     an end maybe if Rebecca and Gary do the right thing.  
4     We could put an end to this sort of thing here today  
5     perhaps and send a message that says this is America  
6     and fairness is fairness and right is right. So, guys,  
7     could you do the right thing, maybe?

8                   MS. LENT: (Inaudible.) We do have quite a  
9     bit of analysis in here. It's based on a 20-year  
10    rebuilding program at 250 metric tons. At 200 -- I'm  
11    sorry, at the 2,500 metric ton allowance. That is our  
12    -- that is the horizon that we're looking at, a 2,500  
13    tons, the purse seine capped at 250.

14                  Basically, with the scenario we're looking at,  
15    everybody is capped because we've kept the constant --  
16    wait a minute, Robert. We kept the constant quota for  
17    the 20-year rebuilding program and that's our horizon.  
18    When we get beyond 20 years then there can be increases  
19    when we reach MSY. So that's why it basically works  
20    out to one and a half metric ton per purse seiner on  
21    average and that's why we have this rationale and those  
22    numbers in there.

1           If indeed in five years there is a change in  
2 horizon because the MSY has gone up --

3           (End of Tape 3, Side B.)

4           MS. LENT: All right. Well, the scenario that  
5 we're looking at standing here today is a 20-year  
6 rebuilding program at 2,500 metric tons. If that  
7 changes you're absolutely right, we'll have to go back  
8 and modify the analysis if we get numbers such as the  
9 one that Rich presents, and we will redo those analyses  
10 at the time.

11          MR. DUNNIGAN: Robert, can you get your  
12 microphone on, please? Thank you.

13          MR. FITZPATRICK: You just said basically the  
14 rationale is that there aren't going to be any quota  
15 increases so therefore it's no problem.

16          MS. LENT: Maybe rationale is the wrong word.  
17 What I'm saying is we have a rebuilding program from  
18 ICCAT -- I don't know if Glen is here. There are a lot  
19 of people here who went to ICCAT with us. And it says  
20 the United States and all these other countries will  
21 have this quota for the next 20 years. Under certain  
22 circumstances, we might change that quota but right now

1 standing here today writing this document, that's what  
2 we based our numbers on. It might change. You're  
3 right, Robert. And if it does change we'll go back and  
4 review the analysis.

5 MR. FITZPATRICK: But I don't see what you're  
6 putting the horse before the -- the cart before the  
7 horse. Why cap them if there aren't going to be any  
8 changes? How about don't cap them and what's the  
9 difference? It only makes sense.

10 MR. DUNNIGAN: We have John Wingard, Bob  
11 Spaeth, Peter Weiss. Gail, was your hand up?

12 MR. WINGARD: Yeah, just in short based on how  
13 I'm understanding what's being said here, what's the  
14 difference between capping nobody and capping  
15 everybody? What's the rationale for capping one? I  
16 just am totally at a loss here.

17 MS. LENT: John, if we could just go back and  
18 read the pages with the different arguments relative,  
19 we feel that relative to the objectives of the  
20 management plan, relative to the national standards in  
21 the Magnuson-Stevens Act, that this fair and equitable  
22 and other objectives that this is the way we should go.

1                   But again, as Gary said, if you think we've  
2                   wrongly interpreted the objectives of the fishery  
3                   management plan or the national standards, we're  
4                   listening. Bring in those objectives and tell us why  
5                   the cap doesn't match the objectives, just as Rich did.  
6                   And we're listening.

7                   MR. WINGARD: Well, I mean I have read the --  
8                   I mean, I've read the comments and I've read -- I mean,  
9                   I've heard what's just been said here. And rather than  
10                  just referring to the rationale which I have read which  
11                  doesn't seem to support what's being done nor listening  
12                  to what's being said here doesn't seem to make any  
13                  sense, just a simple answer given how you just  
14                  responded to Robert, what's the difference between  
15                  capping nobody, capping everybody, and capping one  
16                  group?

17                  MR. DUNNIGAN: Gary.

18                  MR. MATLOCK: I'm going to take a stab at it.  
19                  When we meeting and developed the FMP to begin with,  
20                  everyone was expecting, I believe, that ICCAT would  
21                  probably reduce the quota available to the U.S. for  
22                  billfish tuna, so the discussion that went on was in

1     that context.

2                   When we went to ICCAT and came back, we  
3     actually got an increase in the quota from ICCAT. That  
4     increase results in, if you don't cap the purse seine  
5     quota, in an 8 metric ton increase in the purse seine  
6     quota if you treat that category as every other  
7     category.

8                   The AP did not address that potential. They,  
9     in effect, said if it goes down you want everybody to  
10    go down proportionately the same. Given that there was  
11    an increase from ICCAT, what we did was to put in the  
12    final FMP and the rule that we were not going to  
13    increase the purse seine quota by 8 metric tons, which  
14    would have been the result of increasing everybody  
15    proportionately given the increase we got from ICCAT.

16                   You okay so far?

17                   MR. RUAIS: I don't agree with your  
18    characterization.

19                   MR. MATLOCK: It doesn't matter whether you  
20    agree or not. What matters is that that's what we, the  
21    Agency, did. Whether you agree with it or not, Rich,  
22    is not the point. I'm trying to explain what it is --

1                   MR. RUAIS: I don't agree with your  
2     characterization of the advisory panel's prior  
3     discussion of either status quo or either -- on this  
4     issue.

5                   MR. MATLOCK: You're welcome to disagree. I'm  
6     telling you what our interpretation was. You can  
7     disagree with it all day long and that's fine. I'm  
8     trying to answer John's question so that he understands  
9     what we did and why we did it.

10                  So given that there was an increase and a  
11     potential 8 metric ton increase to the purse seine  
12     quota, and given that the purse seine quota is the only  
13     category with a limited access program, and that if you  
14     increase the total quota to the purse seine by 8 metric  
15     tons it will decrease the quota available to all of the  
16     other unlimited access quota categories, we were not  
17     sure that that was something the AP wanted to do or did  
18     not want to do.

19                  So we put in the final rule what it was we  
20     thought should be done from an agency perspective and  
21     are now here asking you if you don't agree with that  
22     tell us why not so that we can consider that in

1     potentially doing a framework action to change what is  
2     in the current rules.

3             MR. DUNNIGAN: I think that we've been asking  
4     the National Marine Fisheries Service why they did what  
5     we did. I think we've gotten that answer so I don't  
6     know that, you know, continuing to ask Gary and Rebecca  
7     why did you do this is going to further our discussion.

8             We've got Bob Spaeth, Peter Weiss, Bob Hueter,  
9     Pete Jensen and Mau Claverie. Then I would like to  
10    wrap this up and give everybody an opportunity to put  
11    themselves on the record. Bob Spaeth.

12            MR. SPAETH: Thank you. Looking this over,  
13    you know, and going through the years and some of those  
14    purse seiners are located down in Pinellas County and I  
15    think some of them have been built down there, but I've  
16    seen a number of those guys run out of business over  
17    the years through regulation, economics, whatever.

18            And now we're here. I don't see anything,  
19    compelling science, that says by capping these tuna  
20    purse seiners we're going to save one fish. And if  
21    it's the job to save fish, I can see the Agency doing  
22    that, but what bothers me is when the agency comes in

1     and tries to put a business plan in for a user group.  
2     And I'm so tired of it. You know, trip limits, all of  
3     these kind of methods I think are not really sound  
4     scientific environmental management tools. I think  
5     that if you put a size limit, a quota, on a species is  
6     a way to manage it. I think by capping people and  
7     restricting people, save the fish. A dead fish is a  
8     dead fish. If you go ahead and increase 20 the tuna,  
9     and I don't care who kills them, that tuna is dead and  
10    I don't think it's fair to cap the tuna purse seiners.

11                 And that's about all I have to say is a dead  
12    fish is a dead fish.

13                 MR. DUNNIGAN: Peter Weiss.

14                 MR. WEISS: I've just got a question for  
15    Rebecca. I didn't quite understand, you know, Rich's  
16    feeling, I guess, is once the cap is in place is it's  
17    in place forever.

18                 Is that correct, Rich, I mean, basically?

19                 MR. RUAIS: (Inaudible.)

20                 MR. WEISS: Yeah, but I mean -- and you're  
21    saying, Rebecca, that the cap is basically in place  
22    until we get a new -- if we ever get an increase it can

1     be looked at again. I get mixed up there.

2                 MR. DUNNIGAN: Go ahead, Rebecca.

3                 MS. LENT: Thanks for the chance to try and  
4     clear that up. I was trying to address Bob's question  
5     about -- Robert Fitzpatrick, sorry -- about the impact.

6                 Basically, we did present value economic  
7     analyses for both gross and net revenues over a 38-year  
8     horizon. That was based on the assumption for the  
9     first 20 years we stay at status quo both in terms of  
10    the total quota and the allocation of it with the purse  
11    seiners capped.

12                And if you look in Chapter 7 at the present  
13    value analyses at the difference in the present value  
14    between the 20-year rebuilding program with the cap and  
15    without the cap. There is not a really big difference  
16    if you spread it over 38 years particularly. It's not  
17    a big difference. That's why we came up with the undue  
18    -- would not unduly impact.

19                Now, somewhere between now and the next 20  
20    years there may indeed be a change in the U.S. quota,  
21    in which case the purse seiners under the status quo  
22    would be capped and other categories' allocation would

1 go up, so that could change.

2 But under the analyses that we did here for 20  
3 years everybody stays where they are right now, and  
4 then 20 years out there is an increase in other  
5 categories, not the purse seiners. But if you know  
6 about present value analyses, anything that's beyond 25  
7 years or so is practically a zero present value by the  
8 time you bring it back. That's why there is no undue  
9 effect.

10 Does that answer your question as well as  
11 yours, Robert, Peter?

12 MR. DUNNIGAN: Robert.

13 MR. FITZPATRICK: Then cap everybody. It's  
14 simple. You cap nobody or you cap everybody.

15 MR. DUNNIGAN: Bob Hueter.

16 MR. HUETER: Bob Hueter. In the response to  
17 public comment in the Federal Register, NMFS referred  
18 to the lack of catch per unit effort time series data  
19 in this fishery. Can you comment on the significance  
20 of that point in this decision?

21 MR. DUNNIGAN: Rebecca.

22 MS. LENT: In both the objectives of the

1 fishery management plan and in the recommendation we  
2 had from ICCAT, we do want to pay attention to the  
3 quality of data that we provide for the stock  
4 assessments. We do not get CPUE data from the purse  
5 seine category. We get other science but we don't get  
6 CPUE data. That is one of the factors.

7 MR. HUETER: Then that factor did enter into  
8 this decision to cap?

9 MR. DUNNIGAN: Pete Jensen.

10 MR. JENSEN: Jack, my question was one of  
11 procedure. I've been saving my comments thinking we  
12 were going to go around the table but we seem to have  
13 gotten into everybody commenting.

14 MR. DUNNIGAN: I would like to start that.  
15 Gail and John have your hands up. Can you hold on to  
16 your comment as we go around the table and everybody  
17 will get -- and we'll try to wrap this up so we can get  
18 on to the time/area closures issue.

19 Let's go ahead and do that, and we'll start  
20 over in this corner. Ray Bogan. And each of you, you  
21 know, tell Rebecca and Gary where you are on this issue  
22 and why. Ray.

1           MR. BOGAN: Ray Bogan. I don't support the  
2    purse seine cap. A couple of comments are necessary,  
3    however. This is not -- the domestic allocation is not  
4    a reflection of the historical billfish tuna fishery.  
5    It's not -- and when we get up and testify that it is,  
6    it's simply not true.

7           History in the sense of the regulatory process  
8    that we often engage in is very different than real  
9    history. I think everybody will acknowledge that.  
10   There is only one true historical fishery is we go on  
11   real history, and that's the one that's been eliminated  
12   and that's the angling category for school billfish  
13   tuna. I represent inspected vessels. We have no more  
14   fishery any more. We've not lost 40 percent of our  
15   revenues. We lost 100 percent of our revenues.  
16   They're gone.

17          Having said that, I think one of the reasons  
18   that -- I know one of the reasons why I feel that this  
19   cap is not appropriate now, is that as Elden mentioned,  
20   I think there is a problem in the context of Magnuson  
21   and I think NMFS is going to be hit with enough  
22   lawsuits right now that this is just another one.

1                   I'm not being facetious. I'm just saying that  
2   it's a consideration, I think, because you don't want  
3   to just vote on something and support something that's  
4   just going to result in another lawsuit.

5                   And the second component of it is that from  
6   all of our perspectives in the recreational fishery we  
7   see some very, very, dark clouds in the context of  
8   yellowfin tuna. Glen just confirmed our worst fears,  
9   which all of us know was coming, but he confirmed the  
10   fact that we are now talking about in the international  
11   context creating nation quotas based -- and nation  
12   allocations based upon historical catches.

13                  No one here, no one here except for -- I  
14   shouldn't say. No one from here in that direction  
15   doesn't think that we're not in bad trouble right now  
16   on yellowfin. We're in real bad trouble.

17                  So from a selfish standpoint, what I am  
18   hopeful is that for some time if it's an additional 8  
19   tons in the context of the purse seiners catching  
20   bluefin tuna, I'm hoping very selfishly that this is  
21   something of an incentive to keep them off of yellowfin  
22   to some degree because the disaster that's waiting to

1     happen and that will occur in the context of yellowfin  
2     might be lessened if the purse seiners can continue to  
3     share in any benefits derived in the increases in the  
4     catches and the increases in the allocation of bluefin  
5     and stay a little bit off the yellowfin. That's what  
6     I'm hoping.

7                 So, again, I could go into a lot more detail  
8     on the historical component of this fishery. I've done  
9     it in the past and it has fallen on deaf ears. But is  
10    it important in the context of those fishermen who have  
11    been doing this for a long time because, like my family  
12    that's been doing this for over seven decades and the  
13    folks in the purse seine fishery who have been doing it  
14    for almost four decades, we know what it means to try  
15    to protect our historical participation in a fishery.

16                I no longer can protect that because it's been  
17    taken away from us. You folks can and that's what  
18    you're doing. So I don't support it.

19                MR. DUNNIGAN: Thank you. Remember as we are  
20    going around if there are any members who are only  
21    Billfish AP members, please pass. This is an issue  
22    right now for the HMS Advisory Panel.

1 Randy.

2 MR. BLANKINSHIP: (Inaudible.)

3 MR. DUNNIGAN: Okay. Mau.

4 MR. CLAVERIE: Mau Claverie. I'm from the  
5 Gulf Council on their HMS and because this fishery does  
6 not occur in the Council and it's an allocation issue  
7 my instructions are to keep out of it. So if there is  
8 a vote I am going to abstain and if you want comments  
9 I'm going to keep my mouth shut, believe it or not.

10 MR. DUNNIGAN: Thank you. Bob Zales.

11 MR. ZALES: Bob Zales. I am opposed to this  
12 cap for a lot of what Ray said. I have a lot of fears  
13 too about yellowfin and what's going on with that. I  
14 don't think it's fair and equitable to cap these  
15 people.

16 The limited entry situation that they're under  
17 with every other fishery that we're dealing with,  
18 especially in the Gulf of Mexico right now, limited  
19 entry may be something that you're going to need to  
20 look at in all these bluefin categories including the  
21 angling and everything else.

22 We're getting to the point to where you've got

1 a finite number of fish that you're trying to  
2 distribute amongst ever-growing populations of  
3 fishermen, so this is going to be a continuing problem.  
4 But any increase that this country is able to get in  
5 its allocation should be allocated fairly and equitably  
6 amongst all of them.

7 MR. DUNNIGAN: Thank you. Ellen Peel.

8 MS. PEEL: We have grave concerns about  
9 bluefin tuna rebuilding whether, in fact, it's going to  
10 occur in light -- particularly in light of acceptance  
11 and use of the two-line approach, which we opposed  
12 adoption and use of back at the fall meeting and still  
13 have serious problems with it.

14 However, I do not support the cap.

15 MR. DUNNIGAN: Charlie Moore.

16 MR. MOORE: If I understand much of what has  
17 been said particularly concerning the 20-year  
18 rebuilding program, I see no overriding reason to cap  
19 the fishery at this point. But I'm going to sustain  
20 (sic).

21 MR. DUNNIGAN: Peter Weiss.

22 MR. WEISS: I'd like to come back after you

1 get done. I mean, take my comment when you're around  
2 the table. Is that all right?

3 MR. DUNNIGAN: Peter, go ahead. We're going  
4 around the table and this is your turn.

5 MR. WEISS: I just wanted the last word.

6 (Laughter.)

7 MR. WEISS: I think I've made my comments and  
8 that's all I'm going to stay with, really. If you can  
9 read into my comments that's fine. If you can't,  
10 that's fine too.

11 A PARTICIPANT: Okay, thank you. I'm Billfish  
12 AP. I'll pass.

13 MR. PERETT: Corky Perett, Mississippi. I'll  
14 state again any fishery where you have several  
15 categories, several type methods for take, I do not  
16 think it's fair, I do not think it's equitable, to  
17 place a cap on only one or some of the segments of that  
18 fishery unless there is some really compelling  
19 biological reason.

20 And I read in Volume 1 under social and  
21 economic impacts, I was thinking, well, if you put a  
22 cap on this one category perhaps these fish go into

1     reserve and there's some sort of -- there's a  
2     conservation rationale there. But I read that the  
3     extra tonnage that would go in the reserve would most  
4     likely be allocated to other user groups. That's  
5     totally unfair.

6             Thank you.

7             MR. DUNNIGAN: Pete Jensen.

8             MR. JENSEN: Several comments. One, as others  
9     have commented, I find a rationale would not unduly  
10    impact a very awkward, counter-intuitive kind of reason  
11    for the government to regulate. My attitude, if I were  
12    in this position, would be if that's the case then  
13    don't do it. That's a difference of how you approach  
14    problems.

15            I also disagree, Gary, with your  
16    characterization of the context of the discussion we  
17    had. And it's not just disagreeing with you. I just  
18    think it's wrong. And that leads me to make another  
19    comment, and I disagree in principle with putting caps  
20    on the purse seine fishery.

21            But you may remember at our first meeting we  
22    talked about the role of this advisory panel, and I

1 think there was a lot of discussion at the time that it  
2 was tantamount to being an eighth council. And I think  
3 you agreed with that.

4 Yet here we have a situation where I think the  
5 discussion of the AP was pretty clear on where we were,  
6 yet we have a situation where we really did not vote  
7 and a lot of people around this table have said I'm  
8 going to vote this way or I'm going to vote that way.  
9 The fact is, the way the panel has been run is we don't  
10 have clear opportunity to vote or make recommendations  
11 and so there is no record of the real clear  
12 recommendations that this panel made.

13 And so I also don't see any connection with  
14 the rebuilding schedule or the ICCAT or the national  
15 standards in this decision. It almost takes on the  
16 flavor of a predetermined determination looking for a  
17 justification. And if I'm wrong -- perhaps I am wrong,  
18 but that's the impression that comes out in reading the  
19 rationale for why you did it.

20 Thanks.

21 MR. DUNNIGAN: Joe McBride.

22 MR. McBRIDE: Yes, thank you. Joe McBride,

1 New York State. I won't go into the whole history. I  
2 disagree in a historical context and as a retired  
3 historian, I guess, with the synopsis of traditional  
4 fisheries and the history of the purse seine fisheries  
5 as being criteria for consideration any more so than  
6 amongst other fish. I think I pointed out that the  
7 history is not exactly the way it was inferred at last  
8 night's public comment period. So be it. That's not  
9 important. It's just factual.

10 I was going to ask, and I think Gary answered  
11 it, where this cap came from, why we discussed it back  
12 and forth at the last AP meeting. Is it political or  
13 is it scientific? I think Gary, in essence, said it's  
14 political, you know, based on the fact of the ITQs for  
15 the five purse seiners.

16 Now, in many business scenarios and certainly  
17 it's a great business scenario for five purse seiners  
18 to have X amount of a public resource, and God bless  
19 them for their skills and ability to do that in years  
20 past for whatever reason. And I think Glen Delaney  
21 pointed out one of the reasons our category, the  
22 angling category with all its economic value -- and I

1     won't go into that of the \$4 billion in New York State  
2     alone, et cetera, and the 10,000 jobs -- have no  
3     fishery left due to ICCAT and due to the National  
4     Marine Fisheries Service implementation to the letter  
5     of the 8 percent rule.

6             Now, perhaps we could talk to the purse  
7     seiners. Maybe they would want to go back. I'm sure  
8     Rich would agree to something like half of the  
9     historical quota they had and put it in percentage,  
10    like 8 percent, and we'll do as he said to Ray last  
11    night, it's not a cap, it's a percentage.

12            Somehow I don't think you want to do that, but  
13    perhaps maybe this is in the offering. I have five  
14    charter boats and is there any possibility of the  
15    Agency or ICCAT allowing my five charter boats in ITQ  
16    for the charter boat industry on bluefin tuna school  
17    fish? I mean, think about it. It's (inaudible).

18            With all that nonsense, I don't think it's  
19    fair, as do some of my colleagues, that one group be  
20    capped. If I'm against the purse seiners' percentage,  
21    let's go against the purse seiners' percentage, get rid  
22    of the ITQs. All of that can be done, I'm sure,

1     legally if such a thing is an offense or it's wrong or  
2     it offends the panel or offends the public.

3             So I'm against the cap basically on I don't  
4     like to single out one group even though I don't concur  
5     with certainly all the historical past when they had a  
6     great role, not only they but the whole general  
7     category, in destroying the charter and party boats  
8     bluefin school fishing on the east coast, certainly in  
9     New York, New Jersey, Connecticut and Rhode Island, of  
10    which I represent.

11            But what's right is right, what's fair is  
12    fair, and I don't think it's fair to single out one  
13    group without having an overall -- there is other ways  
14    to deal with the inequity that Gary mentioned with the  
15    ITQs. That's my feeling.

16            MR. DUNNIGAN: Thank you. Robert Fitzpatrick.

17            MR. FITZPATRICK: I'm clearly opposed to the  
18    cap. And Joe keeps bringing this up and Ray touched on  
19    it, and I agree with you entirely that the historical  
20    record is incomplete. Thanks.

21            MR. DUNNIGAN: Nelson Beideman.

22            MR. BEIDEMAN: Blue Water opposes the cap. I

1     would like to comment on a few things. I don't think  
2     enough time has been spent on what Glen brought up, and  
3     I hope that the powers that be in the administration,  
4     the powers that be in the Congress, I know there is the  
5     Senate's subcommittee is represented here, will take  
6     serious time to reflect on some of the issues that Glen  
7     raised.

8                 NMFS' actions, unless they are very serious,  
9     you know, conservation reasons, tend to undermine the  
10    credibility of the U.S. delegation, not only on things  
11    of the cap but also on the discard provisions. As soon  
12    as the discard provisions came up, the issue was  
13    raised, discussions were made with the U.S.  
14    commissioner. After the meeting discussions were made  
15    with the U.S. commissioner.

16                NMFS' actions have gone in the opposite  
17    direction. We strongly support East Coast Tuna's  
18    position, Ray's position, Elden Greenberg's position  
19    that this is illegal, Corky's position on the  
20    unfairness, and we would recommend that NMFS withdraw  
21    the cap and avoid an unnecessary lawsuit.

22                MR. DUNNIGAN: Gail Johnson. Thank you for

1     being patient.

2                   MS. JOHNSON: Gail Johnson. One of the buzz  
3     phrases around here is a dog in this fight. Well,  
4     we're a puppy in this fight.

5                   An aside. Some people are worried about the  
6     seiners going after yellowfin. Well, if I had a cap  
7     that effectively reduces my allowed catch, I'd be  
8     looking for something else to do to keep the boats  
9     busy. Boats are unhappy when they're idle.

10                  My opinion is that there is a cap in terms of  
11     a quota on all of us, and forgive me if I've missed  
12     something along the way but I don't know why we're not  
13     capped in terms of percentages. We all rise and fall  
14     with that rising and falling overall quota tide.

15                  Thank you.

16                  MR. DUNNIGAN: John Wingard. Thank you, too.

17                  MR. WINGARD: John Wingard. If I understand  
18     correctly, I think some of the rationale here based on  
19     net present value in essence amounts to allocating the  
20     fish to that sector that can make the most money off of  
21     it.

22                  A PARTICIPANT: (Inaudible.)

1 MR. WINGARD: Okay -- sure.

2 MS. LENT: No, I was just asked by Robert to  
3 explain where the "does not unduly affect" comes from  
4 but that was not economic allocations.

5 MR. WINGARD: Okay. My position is, I mean,  
6 yesterday and today we've heard direct references to  
7 how this isn't in concordance with the Magnuson-Stevens  
8 Act and I agree with those rationales. I support -- I  
9 think this is inequitable. I think to put a  
10 quantitative cap on one group while others are  
11 operating under a percentage basis is treating one  
12 group fundamentally different than the other groups.

13 To argue that because they have limited entry  
14 that they're insulated from competition I think only  
15 makes sense if their market is also somehow sequestered  
16 from the markets of other groups. Otherwise, just as  
17 Robert pointed out, they are still under competition  
18 from these other groups.

19 And just in response to Gary's response to me,  
20 which I appreciate, I just want to make explicitly  
21 clear that when I support status quo that's status quo  
22 whether it's going down or status quo whether it's

1     going up.

2                 I strongly support that if we want to dicker  
3     about percentages, that's one argument; but to separate  
4     one group out and put them under quantitative  
5     restrictions and not under percentage restrictions I  
6     think is unfair treatment of that particular group.

7                 So I am categorically against the cap, 250  
8     metric ton cap.

9                 MR. DUNNIGAN:   Bob Spaeth.

10                MR. SPAETH:   Bob Spaeth, SOFA.   I'm against  
11     the cap.

12                MR. DUNNIGAN:   Bob Hueter.

13                MR. HUETER:   Bob Hueter.   As an independent  
14     scientist I'm only an advocate for healthy resource and  
15     sustainable optimally productive fisheries.   And I'm  
16     finding myself in a very strange situation in this  
17     issue and being more judgmental in the weight of the  
18     evidence than advisory.   So I've looked at those  
19     criteria that I use and applied the test of judgment, I  
20     guess.

21                When I look at whether this affects stock  
22     rebuilding and the health of the stock, I don't see

1 anything compelling in that category. When I look at  
2 bi-catch issues, I haven't heard anything there or read  
3 anything. When I look even outside of the resource to  
4 other areas that we deal with all the time such as gear  
5 conflicts, I haven't heard anything.

6 And it seems to me -- well, we heard about the  
7 data issue but it seems that that could be worked out.  
8 It seems to me this is an economic allocation issue and  
9 I would, in my role, I would be looking for strenuous  
10 objectives coming from the other user groups in the  
11 fishery and I haven't heard that. I found Peter's  
12 comments to be obtuse at best.

13 A PARTICIPANT: (Inaudible.)

14 (Laughter.)

15 MR. HUETER: Precisely. So not as an advisor  
16 but as sort of an independent judge, if you will, I  
17 find the evidence not compelling so I would be opposed  
18 to this move.

19 MR. DUNNIGAN: Sonja.

20 MS. FORDHAM: Sonja Fordham, Center for Marine  
21 Conservation. I agree with a lot of what Dr. Hueter  
22 has said. I'm at a loss. I don't work on tuna issues

1     and I missed the Baltimore fiasco.

2             But there does appear to be very little --  
3     there's no conservation argument for a cap and it seems  
4     to be an allocation issue so I couldn't support it. I  
5     would just say on the face of it just coming into this  
6     issue, it's rather puzzling how and why this got so  
7     far.

8             The document says that the public comment has  
9     been mixed and the AP has been mixed, and last night  
10    there wasn't a single person that testified in support  
11    of this, and we've had very little in the way of  
12    rationale supporting a cap.

13            And I also question whether it's a good  
14    precedent to set to penalize the only sector that has  
15    adopted a limited entry program. And I'm not an expert  
16    on limited entry, but I know one of the fundamental  
17    reasons for employing the limited entry system is to  
18    provide, theoretically provide, the users of some sense  
19    of ownership of the resource.

20            And it seems, again theoretically, that if you  
21    take -- if you insure that the quota for that sector  
22    never increases that you would take away some of that

1     incentive for them to be good stewards of the resource.  
2     So I can't support it.

3             Thank you.

4             MR. DUNNIGAN:   David Wilmot.

5             MR. WILMOT:   Well, my dog was killed in the  
6     bluefin fight so when it comes to allocation there is  
7     not much for me to say.  I do want to follow up on what  
8     Bob Hueter had to say, however.  I will defend NMFS'  
9     right here to look for other reasons why one might  
10    single out a user group.  I think there are a couple of  
11    arguments here that deserve discussion and could have  
12    been followed up on.  The data is certainly one.

13            But I think Bob is right that the case wasn't  
14    made, and my advice would not be on this particular  
15    issue but a little broader.  Don't stop doing this but  
16    look maybe a little more closely when trying to justify  
17    so that these things can be defended.  I think there  
18    are going to be times where there is good reason to  
19    single out a particular user group and, say, due to bi-  
20    catch or other factors we should reduce, cap, et  
21    cetera.

22            So, unfortunately, in this case there is not a

1     compelling conservation issue here so I don't have a  
2     strong position.

3             MR. DUNNIGAN:   Russ Dunn.

4             MR. DUNN:    Russ Dunn, Ocean Wildlife Campaign.  
5     I would just reiterate what Dave said but I do have a  
6     question, a peripherally related question which I can  
7     wait and ask later for Commissioner Delaney on  
8     something he stated while he was at the table.   So I  
9     can wait now or --

10            MR. DUNNIGAN:   Let's hold off.   Thank you.  
11     Rusty Hudson.

12            MR. HUDSON:   Rusty Hudson, directed shark.   I  
13     oppose the cap.

14            MR. DUNNIGAN:   Steve Loga.

15            MR. LOGA:    Steve Loga.   I'm opposed to the cap  
16     also.

17            MR. DUNNIGAN:   John Graves.

18            MR. GRAVES:   Well, fortunately, ICCAT doesn't  
19     have a dog in this one at least, and I'm very happy  
20     that this panel is taking on the domestic allocation  
21     issue because it's made my job on the ICCAT Advisory  
22     Committee infinitely easier.   However, I will take off

1 my ICCAT hat and become Citizen Graves, and at this  
2 point I don't support a cap. I don't think it is  
3 equitable. I think that the competition is within the  
4 market place.

5 Furthermore, in terms of the conservation  
6 issues, if you look at that fishery they're maximizing  
7 the yield per recruit relative to the other fisheries.  
8 It's a cleaner fishery. And also in terms of  
9 enforcement and regulation, it's a very easy one to  
10 take care of relative to the other fisheries.

11 MR. DUNNIGAN: (Inaudible.)

12 A PARTICIPANT: I'm tempted to pass since I'm  
13 -- I'm so gratified by the comments around the room.

14 A PARTICIPANT: (Inaudible.)

15 A PARTICIPANT: But there are a couple of  
16 comments that I wanted to make. One, I can't help but  
17 think about what Nelson was talking about yesterday in  
18 terms of trying to get those people that aren't  
19 participating at the ICCAT level in Madrid to be  
20 thinking about the psyche. And he used the bullfight  
21 analogy.

22 In this case I can't imagine if there were a

1 couple of Spanish fishermen, an Italian fisherman in  
2 the back of the room listening to the amount of time  
3 we've spent on this 8 tons, it's really sad and I thank  
4 everybody for their patience on that. It's a terrible  
5 waste of talent in this room to be focused on this  
6 issue for so long.

7           There are just a couple of specific comments,  
8 though. One Bob Hueter was raising the stock  
9 assessment issue. I would point out that the purse  
10 seine fishery from the Mediterranean for bluefin is  
11 used in the stock assessment in the eastern Atlantic  
12 and there is no objection to that by U.S. scientists  
13 and we've pleaded with them to use the very long-time  
14 history of purse seine catches in the western Atlantic  
15 as a CPUE for the stock assessment, but for some reason  
16 it isn't there.

17           The other argument that we've made time and  
18 time again is there is only so much quota that you need  
19 to dedicate towards scientific monitoring, and more is  
20 better. We acknowledge that. But we've got over a  
21 thousand tons of the U.S. quota alone and originally it  
22 was thought that about 600 tons was what was required

1 to truly monitor the stock. In the U.S. alone it's  
2 putting 1,000 tons into the CPUEs and you've got the  
3 Canadian end of season, you've got the Japanese end of  
4 season, the west Atlantic, so it's hard to use that as  
5 the criteria.

6 Well, I'm going to stop there.

7 MR. DUNNIGAN: Thank you. Jim Donofrio.

8 A PARTICIPANT: (Inaudible.)

9 A PARTICIPANT: You better go on record with  
10 that.

11 A PARTICIPANT: I'm opposed to the cap. Thank  
12 you.

13 MR. DONOFRIO: Thank you, Jack. I don't see  
14 any conservation to this cap here. As far as I'm  
15 concerned, the entire United States tuna industry, both  
16 recreational and commercial, were capped already in a  
17 very tight and restrictive rebuilding plan that, in my  
18 opinion, is far too restrictive. I would have liked to  
19 seen to get us get a little more quota last year but we  
20 just don't have consensus among the whole recreational  
21 community so there's nothing we can do about that.

22 Also for the other reasons that Raymond Bogan

1     had mentioned before, my feeling is -- and I've seen  
2     this in other fisheries -- the Agency will make some  
3     restrictions on, say, this purse seine industry and  
4     then, lo and behold, they will be targeting -- it's no-  
5     brainer economics -- they'll be targeting yellowfin  
6     tuna, which is the mainstay of our industry for our  
7     boat industry for our tackle industry and, you know, we  
8     don't want to see that happen. We don't want to see  
9     that redirected effort on yellowfin tuna. So for a  
10    selfish reason also. Thank you.

11               MR. DUNNIGAN: Thank you, Jim, and thank you  
12    all very much. We need to move ahead so that we can  
13    take a break and then get back into the time/area  
14    closures issue.

15               Russ Dunn said that there was a quick question  
16    that he wanted to ask our ICCAT commissioner that would  
17    merit a quick response, so let's go ahead and do that  
18    and then we'll take our break. Russ.

19               MR. DUNN: I was just interested in one thing  
20    you said when you were sitting over in Randy's seat  
21    that it undermines us credibility at ICCAT if we have  
22    conflicting domestic and international policy stances,

1     which I agree with wholeheartedly.

2                   And I just want to make sure that that means  
3     that you, as a commissioner, will do your utmost at  
4     ICCAT to secure the ten-year swordfish rebuilding as  
5     proposed in that final FMP and the deduction of dead  
6     discards from the international quota as put forward in  
7     the FMP. And that to me seems like the consistent step  
8     between U.S. and domestic and international policy.

9                   MR. DUNNIGAN: Glen Delaney.

10                  MR. DELANEY: I don't know if I'm genetically  
11     capable of a short answer, but I'll try my best.

12                  (Laughter.)

13                  MR. DELANEY: No, I'm kidding. We don't have  
14     a U.S. position formulated yet. There is a very  
15     deliberate process which Mr. Graves is partially  
16     responsible for, so I hesitate to say what the U.S.  
17     position will be with regard to swordfish.

18                  If I could take off my U.S. commissioner hat  
19     and just say personally I am very motivated to develop  
20     as aggressive a swordfish rebuilding plan as can be  
21     achieved at ICCAT. I think we will have very stiff  
22     challenges to an aggressive plan, but I personally will

1 be advocating within the process of developing a U.S.  
2 position which, as you know, is a very elaborate and  
3 lengthy one, for an aggressive rebuilding plan.

4 How many years that will be I can't say for  
5 sure, but I want to get as aggressive a one as I can,  
6 personally.

7 Is that a fair answer?

8 MR. DUNNIGAN: Thank you, Glen, very much.  
9 Housekeeping issue. We're going to take a break. The  
10 other members of the Billfish panel will be joining us.  
11 We need more space around the table so we're going to  
12 add some tables down at this end. You can leave your  
13 things in place but sort of move away from the table to  
14 give staff an opportunity to add some more space.

15 And those of you that are looking for seats,  
16 try to head down towards this part of the room. At  
17 10:15 we're coming back so don't get lost. Thank you

18 (Recess.)

19 MR. DUNNIGAN: -- has some travel  
20 reimbursement information so if you want to get paid,  
21 pay close attention.

22 A PARTICIPANT: I have a travel packet for all

1 of you and it has instructions and it has a travel  
2 voucher for you to sign. And if you didn't submit  
3 anything from last meeting you can still do that and  
4 you can still be paid for that one.

5 And if you do everything on here you'll get  
6 your money, and this time it should be faster because  
7 you've already filled out this CAMS form and put in the  
8 electronic deposit. And if you don't know whether you  
9 were paid from the last time because of the electronic  
10 deposit, if you give me your name I'll call finance for  
11 you and find out when you were paid and what amount,  
12 and then I'll call you up and tell you.

13 I included this CAMS form again but you don't  
14 need to fill it out if you already did. I just put  
15 that --

16 A PARTICIPANT: (Inaudible.)

17 A PARTICIPANT: Well, they say they paid you.  
18 I'll have to find out the date and the amount.

19 A PARTICIPANT: (Inaudible.)

20 A PARTICIPANT: That has happened to a lot of  
21 people and almost everyone was paid between August -- I  
22 mean, April 19th and 22nd and almost everyone thinks

1     that they weren't paid.   So --

2               A PARTICIPANT:   I'll put your name on the  
3     list, Corky.

4               A PARTICIPANT:   (Inaudible.)

5               A PARTICIPANT:   (Inaudible.)

6               A PARTICIPANT:   No, but seriously, anybody  
7     that doesn't know if they were paid or not I'll check  
8     on it with finance because --

9               A PARTICIPANT:   I asked them to notify you and  
10    they said no, they couldn't do that.   And then I asked  
11    them to notify me and they said no, they couldn't do  
12    that.

13              A PARTICIPANT:   (Inaudible.)

14              A PARTICIPANT:   Okay.

15              A PARTICIPANT:   (Inaudible.)

16              A PARTICIPANT:   Oh, okay, yeah.   I just got  
17    your receipts recently.   Yeah, that's why you haven't  
18    been paid yet.

19              A PARTICIPANT:   (Inaudible.)

20              A PARTICIPANT:   Yes.

21              A PARTICIPANT:   (Inaudible.)

22              A PARTICIPANT:   Yes, and they're originals.

1     Yeah, you're okay.

2                   A PARTICIPANT:  (Inaudible.)

3                   A PARTICIPANT:  Yours isn't there yet.  That's  
4     the reason you weren't paid yet.

5                   A PARTICIPANT:  (Inaudible.)

6                   A PARTICIPANT:  And if anybody has questions  
7     you can call me and I'll try to figure it out.  And  
8     like I said, if you didn't do it last time I'll just  
9     give you two packages and you can do it now for last  
10    time.

11                   And I'm sorry about this electronic deposit  
12    confusion because that's their new system and they  
13    won't make any exceptions.  So if you have any  
14    questions on -- I'd be happy to help you.

15                   MR. DUNNIGAN:  Thank you.

16                   A PARTICIPANT:  Thank you.

17                   MR. DUNNIGAN:  Thank you, Pat.  Now that we've  
18    got both panels sitting together, Gary wanted to take a  
19    couple of minutes to bring you up to date on some  
20    things from his perspective.  So with both panels  
21    together, Gary, why don't you go ahead.

22                   MR. MATLOCK:  Thank you very much, Jack.  Let

1 me first begin by apologizing for not being able to be  
2 here yesterday. I wanted very much to attend the  
3 meeting and have the opportunity to hear the public  
4 comments last evening as well as the comments from the  
5 panel on our presentations yesterday during the day.

6           Unfortunately, I was not able to be here  
7 because I was busy representing the Secretary of  
8 Commerce in a contempt hearing in Boston,  
9 Massachusetts. We have been charged, have ben accused,  
10 of being in contempt of a court order concerning  
11 spotter planes in the bluefin tuna fishery. And the  
12 contempt motion was filed in response to an accusation  
13 that we had not one what the court ordered us to do.

14           We successfully defended ourselves, thank  
15 goodness, because had we not I could have been faced  
16 with staying in Boston against my will for some amount  
17 of time, which --

18           A PARTICIPANT: (Inaudible.)

19           MR. MATLOCK: Yeah, I had a toothbrush, thanks  
20 to Miriam. But in any event, we ended up winning in  
21 that particular motion.

22           One of the most disturbing things relative to

1 the advisory panel though that I thought I would bring  
2 back to you that occurred during the process of the  
3 last three days is that there were two statements or  
4 affidavits filed relative to that motion for finding us  
5 in contempt.

6 What I wanted to do to start is to read you a  
7 portion of one of those affidavits because it concerns  
8 very directly the advisory panel and try to convey to  
9 you the importance and the basis upon which we try very  
10 much to maintain as much order as possible during the  
11 advisory panel and the public hearing process through  
12 which we go.

13 So I'll just take the liberty to read a bit of  
14 this for you. It says, "Based on my attendance and  
15 participation in these public processes, I believe that  
16 the defendant's designees," or in other words, the  
17 National Marine Fisheries Service, "sought to foment  
18 and encourage efforts by longstanding spotter plane ban  
19 opponents to resurrect the spotter plane ban that this  
20 court invalidated in June of '98.

21 "For instance, the HMS AP held a meeting in  
22 Warwick, Rhode Island, on August 26-28, 1998. The

1 Agency did not maintain order at the August 26th, 1998,  
2 meeting. Spotter pilots and their supporters were  
3 threatened and shouted down at the public meeting. One  
4 spotter pilot was 'rushed' by a plane opponent when the  
5 pilot attempted to speak on the issue. Matters got so  
6 out of hand at the Warwick AP meeting that certain  
7 supporters of spotter planes came to fear for their  
8 safety if they expressed an opinion supporting the  
9 planes.

10 "Others have stated that they have opted to  
11 cease attending subsequent meetings because of their  
12 concern that the process had gotten so biased and  
13 because of concerns about their personal safety. The  
14 Warwick meeting was not the only time that matters were  
15 let to slip out of control. I witnessed a similar  
16 effort to 'rush' an individual speaking on behalf of  
17 spotter planes at a NMFS meeting in Alexandria,  
18 Virginia."

19 And it's my opinion, having been at the  
20 Warwick meeting in August, that this is not quite an  
21 accurate description of what transpired but,  
22 nonetheless, it is what someone perceives to have

1     transpired because they signed an affidavit under oath  
2     that that did happen.

3             What I want to convey to you today is that in  
4     order to correct that perception we will do everything  
5     in our power to make these meetings controlled,  
6     courteous, responsible, and everyone has an opportunity  
7     to participate to the extent that they want.

8             If we are unable to do that, we will end these  
9     meetings. And I want to make sure everyone understands  
10    that's our position and that's how we're going to  
11    conduct ourselves.

12            Now, it is a responsibility on the part of the  
13    Agency to make sure that the meetings get conducted and  
14    people have an opportunity to participate as they so  
15    choose --

16            (End of Tape 4, Side A.)

17            MR. MATLOCK: -- responsibility to help us  
18    accomplish that because when we have a meeting, whether  
19    it be a public meeting or a meeting of the advisory  
20    panel, it's to obtain input from the public in an  
21    unbiased and comprehensive and complete way so that  
22    people can say what they want to say no matter what it

1 is they want to be able to say.

2 So I want to make sure you know there is this  
3 perception and that we've got to make sure that we go  
4 beyond what is absolutely necessary, minimally  
5 necessary, in order to make sure that this perception  
6 gets undone and corrected, even though it may not be  
7 corrected at this point.

8 I'll entertain, Jack, if you like, a question  
9 from Bob but I have a few other comments I want to make  
10 as well.

11 MR. DUNNIGAN: Bob Spaeth.

12 MR. SPAETH: Gary, I would like to point out  
13 that the panel that was, if I remember, both of the  
14 times that this happened was the same guy and it was  
15 during public hearing and this panel was just there to  
16 sit there and I don't think any of the panel members  
17 were ever involved in any of these altercations.

18 So I think that, you know, I just wanted to  
19 point out it was during the public hearing process that  
20 these broke out and I don't think it's the fault of the  
21 panel.

22 MR. MATLOCK: No, and I'm not in any way

1     trying to indicate that it is the fault of the panel.  
2     What I'm doing is asking for your help because you were  
3     there, at least in Warwick when I was there, it took  
4     Rebecca stepping between the two individuals with no  
5     help from anyone.

6             MS. LENT:   Including you, Gary.

7             MR. MATLOCK:  I was against the wall and  
8     making a move, I guarantee.  But you're right.

9             MS. LENT:   It was on the other side of the  
10    (inaudible).

11            MR. MATLOCK:  So my point is that we can not  
12    allow that kind of behavior to occur and, if it does  
13    occur and we can't stop it effective in a way that it  
14    does not occur, we'll end the meetings no matter where  
15    it's an AP meeting or a public hearing process.

16            MS. LENT:   I might just add that we redid the  
17    ground rules yesterday before our public comment period  
18    and everybody behaved very well and stayed within the  
19    time limit, and I do appreciate that.

20            MR. DUNNIGAN:  Corky and then Robert.  Corky  
21    Perett.

22            MR. PERETT:  Thank you.  Corky Perett.  Gary,

1 I'm a little bit disappointed to hear you say you're  
2 going to end the meetings. It seems to me we need to  
3 take some precautionary measures, if you will. You  
4 coming out of a state, you know some of the issues that  
5 have been involved with public hearings.

6 In the states we have, if we think it's going  
7 to be a really controversial knock-down drag-out, we  
8 have officers in uniform. Now, if a state agency can  
9 afford to do it, big NMFS like my friend Mr. Claverie  
10 calls you up here, can certainly look into that.

11 Two examples come to mind. The TED issue in  
12 Thibodeau and T. John Mialovich (phonetic) fill the  
13 coliseum up in Thibodeau, Louisiana, Andy and some of  
14 your buddies were afraid to even show up. We had all  
15 these uniformed people. So there are other  
16 alternatives to just end the meeting, and hopefully we  
17 will not have that type of activity but on some issues,  
18 you know, some people may get a little bit out of hand  
19 and hopefully we'll be able to handle it a little  
20 better.

21 MR. DUNNIGAN: Robert Fitzpatrick.

22 MR. FITZPATRICK: To the same issue. In

1 bluefin I think that the problem has been pretty much  
2 tied to a few individuals and their behavior has  
3 improved at the last few meetings and a bunch of us  
4 spoke to them. If they were read the riot act and  
5 informed that they would no longer be allowed should  
6 this sort of incident occur again, it might not ever  
7 happen again. Certainly it could happen with somebody  
8 else but, I mean, the three incidents that I can think  
9 of in bluefin issues I think is the same guy all three  
10 times.

11 MR. DUNNIGAN: Mau.

12 MR. CLAVERIE: I was going to make the same  
13 suggestion Corky made which is uniformed bouncers, but  
14 you can't deny somebody the right to speak without a  
15 hearing so that would get to be a complicated process.  
16 So just get big uniformed bouncers.

17 MR. DUNNIGAN: Okay. Peter and then Bob  
18 Zales. And we want to let Gary get on to his other  
19 points.

20 MR. WEISS: Peter Weiss. It has been one  
21 individual, and that's true. We have a meeting coming  
22 up in -- I think the 15th of this month and it could be

1 a hectic meeting. I'm not quite sure. It depends if  
2 the other side shows up or not. But certainly I think  
3 the idea of having some NMFS enforcement people there  
4 is -- I think that's one of the answers, Gary. I don't  
5 think the idea of not having a meeting is really the  
6 right solution. I mean, we've got to have meetings and  
7 that's what enforcement people are there for.

8 And I suggest that the meeting is in  
9 Gloucester and enforcement headquarters in Gloucester,  
10 and certainly we would hope to see a couple of them  
11 there.

12 MR. ZALES: Bob Zales. I'm not going to  
13 belabor the point. I just agree with the last several  
14 comments about having some type of officer at these  
15 meetings.

16 MR. DUNNIGAN: (Inaudible.)

17 MR. MATLOCK: Yes, thank you. Let me respond  
18 to your comments and tell you first NMFS enforcement  
19 agents are not there to control crowds. They are not  
20 there to deal with the public. They are there to  
21 protect government employees, so it is not within our  
22 purview to have them there to control the public.

1           The second thing is that we do have uniformed  
2 individuals to the extent that we can from the agencies  
3 that are responsible for that kind of thing.

4           Finally, we are taking additional steps  
5 proactively like this one today to deal with this  
6 topic. We also have published in our Federal Register  
7 notice, if you had an opportunity to look at it,  
8 reminding the public of the kind of behavior that's  
9 acceptable and that that's not.

10          So we will do, and continue to do, all of the  
11 kinds of things proactively that we can do. We need  
12 your help though to do I think, Robert, as you just  
13 said, and that is to make it very clear to those  
14 individuals that we know our responsible in part for  
15 some of this behavior it's not going to be tolerated.

16          Now, we don't have the ability -- we, the  
17 government employees sitting here holding meetings --  
18 the ability or the authority to remove someone. We can  
19 ask somebody else to do that but we are not going to  
20 put ourselves or the public in jeopardy when we have  
21 this kind of situation and this kind of an affidavit  
22 going before a federal judge to the extent that we can

1 prevent that.

2           So that's what we're going to do. If we find  
3 ourselves in a position where this kind of thing is  
4 going on and it doesn't stop, we're not going to  
5 subject ourselves to being the cops. I'm not a cop.  
6 We need your help to make sure it doesn't happen.

7           Okay.

8           MR. DUNNIGAN: (Inaudible) real quick.

9           MR. PERETT: Yes, Gary, I agree. None of us  
10 are all cops but one point you brought out I want to --  
11 I just want to add to that. As examples, the Gulf  
12 Council holds public meetings, public hearings. If  
13 it's an issue that they think there could be a rowdy  
14 crowd, so on and so forth, they call us state directors  
15 and ask for state wildlife agents to be present, and we  
16 supply it. I've done it in two states and I know the  
17 others have also. That's a possible solution too or a  
18 possible way to assist it.

19           But our agents in the state aren't bodyguards  
20 either, but that's just part of the duties if it's  
21 necessary.

22           MR. DUNNIGAN: Go ahead, Gary.

1                   MR. MATLOCK: Thank you, Jack. The second  
2     thing that is a bit off the topic today but I wanted to  
3     make sure that you know we've done this because we've  
4     managed, I think, to get it filed or it will be filed  
5     very soon, and that is in the case of bluefin tuna we  
6     are adjusting the bag limit this year and setting a  
7     time period within which the bag limit can occur.

8                   And this deals very specifically with the 8  
9     percent issue and the small school fish, and we're  
10    doing this in response to requests that we've received  
11    to try to have a season that's fixed with as high a bag  
12    limit as we can have in a given year so that people can  
13    plan their charter boat operations in particular. It's  
14    not the only reason but that's one of the major ones.

15                  What this may mean if the take, if the harvest  
16    this year, is in excess of, say, the harvest this year  
17    because we're not able to shut it down or effect it --  
18    we don't plan to shut it down, we plan to take the  
19    overages, for example, if there are over this year out  
20    of next year's.

21                  It could mean that there would be no harvest  
22    of those size fish next year, and I want to make sure

1     that as a group involved in this particular fishery  
2     everyone knows that's a possible outcome. I'm not  
3     telling you that it will be, but it is a possible  
4     outcome of our having to try to be responsive within  
5     the ICCAT provisions of the requests we've received  
6     this year.

7             That's the second point. Jack.

8             MR. DUNNIGAN: Anybody have a question on  
9     that? Joe McBride.

10            MR. McBRIDE: Joe McBride, Montauk Boatmen and  
11     Charters Association as well as New York State. Gary,  
12     I'm sure you're aware if you weren't here at the last  
13     AP meeting that we had requested for two years  
14     straight, meaning the New York State and the MBCA  
15     specifically, that there be subdivisions within the  
16     northern zone for the angling category of approximately  
17     40 to 45 metric tons divided between school, large  
18     school, and small and medium.

19            At the last meeting I think it was voted  
20     unanimously that this be done for the 1999 season.  
21     Furthermore, Congressman Forbes had written to you  
22     requesting support of that particular scenario and

1     asked that you would specifically give him any  
2     rationale and reasons as to why you wouldn't do it.  
3     Now, I'm not saying there's anything wrong or bad about  
4     your plan per se, but it sure as heck isn't the plan  
5     that this committee met on.

6             Now, gentlemen, I'm going to say something to  
7     all of the board members here. It is a big sacrifice  
8     for myself and many others here. I don't get employed  
9     -- I'm not employed by an association. It comes out of  
10    my pocket other than what the government pays. I have  
11    to hire a captain for my boat to represent my people in  
12    New York which can not afford to pay lobbyists, to be  
13    very specific.

14            If I'm coming here and we all agree on  
15    something, whether it's that issue or any other issue,  
16    that I think that the Agency owes this panel a  
17    rationale as to why they don't conform to it and try  
18    it, or give us a reason as to why it's not practical or  
19    illegal.

20            Let me give you an analogy. I belong to the  
21    New York State MRAC which is an advisory board very  
22    similar to this made up of 14 to 15 -- 14 people, half

1 commercial have recreational, if you want to use that  
2 term -- and overseen by an academic from the State  
3 University of New York.

4 When we vote on something the New York State  
5 DEC, analogous to the National Marine Fisheries  
6 Service, has to either accept it and implement it or  
7 tell us why it's not legal or why it's not feasible and  
8 et cetera, et cetera.

9 I mean, to have a panel like this and to put  
10 the burdens on these people that we do coming down  
11 here, you know, I find it hard that our input is not  
12 more adhered to, to be very specific.

13 MR. DUNNIGAN: Okay.

14 MR. MATLOCK: I think that allows for the  
15 opportunity to link to the response to one of the  
16 issues that I think Pete Jensen raised a bit earlier  
17 and to state again what I thought I had done pretty  
18 well at the outset of the advisory panel discussions  
19 back in '97.

20 And it is that the advisory panel is not --  
21 let me say again -- it is not tantamount to an eighth  
22 council. It is an advisory panel. And until the law

1 is changed -- and it may be, I have no way to predict  
2 that -- but until it is changed the advisory panel is  
3 not tantamount to council.

4 It is a panel that does give us advice. We  
5 are responsible, I believe, Joe, to respond to what the  
6 panel gives us as advice, and I believe in the specific  
7 case that you're addressing you'll find a response to  
8 that particular proposal in our comments and response  
9 section in the preamble to the final rule.

10 We're not in the business -- and I'll be very  
11 honest with you in that I'm not sure we're going to get  
12 in the business -- of sending some sort of detailed  
13 response to everything the advisory panel recommends  
14 outside of the processes that we already have to  
15 follow. We do give some responses to the extent that  
16 we can to the panel, but we do it through the other  
17 available mechanisms as well and make those responses  
18 available to the panel.

19 So I don't envision us sitting down and  
20 writing a letter, for example, after every advisory  
21 panel with every comment, every recommendation, every  
22 discussion, saying here's what we have to say about

1     that. We try to do that to the extent we can here but  
2     we use other mechanisms as well.

3             MR. DUNNIGAN: Joe.

4             MR. McBRIDE: If I may, Gary, I think that you  
5     have to make a distinction about a general  
6     conversational recommendation and something we ask for  
7     and receive a unanimous vote on after a discussion of  
8     the philosophy, the injustice, et cetera, et cetera,  
9     just similar to what we had with the cap.

10            Now, I know you responded to the cap scenario  
11   for Rich Ruais because it was important for the purse  
12   seiners. Nothing wrong in that. It should be that  
13   way. But just as important to our industry, the sport  
14   fishing industry in Long Island was that subdivision up  
15   and down the northern zone. We have not had a fishery  
16   probably for six or seven years, for whatever reason.  
17   Maybe we'll succeed this year.

18            I hate to tell you, Gary, I've heard this  
19   story before in the past and I'm not looking forward to  
20   going back and telling my constituents that there is a  
21   new plan out this year up and down -- whatever it may  
22   be, I haven't seen the final form yet -- that's

1 different from what we asked for and we agreed upon.

2           If we had a floor in our plan, just as there  
3 might have been a floor in the cap proposal, I think in  
4 due courtesy you could have either brought it to the  
5 floor, defended your position, and say you couldn't do  
6 it because it's just something we're doing in  
7 conversation. It's something that we feel is very  
8 critical and equity and fairness to our industry, which  
9 is hurting.

10           And I think Ray Bogan put it very mildly to  
11 have 3 metric tons for a season is no season. We have  
12 no fishery. We're out of the bluefin school fishery on  
13 the northeast section with the exclusion perhaps of New  
14 England. Connecticut, Rhode Island, New York, and New  
15 Jersey, for all practical purpose, has no fishery  
16 because we have no set time and no set quota that we  
17 can tell people we're going to be able to fish upon. I  
18 don't think that's a big request because it's all  
19 within your quota guidelines. It's just a matter of  
20 allocation and fairness.

21           I don't want to belabor it to death. I think  
22 you get the gist of it and I'm sure everybody else

1 does. But it's important, even if it's only important  
2 to Long Island and New Jersey and Connecticut and Rhode  
3 Island.

4 MR. DUNNIGAN: Thank you very much, Joe.  
5 Gary, did you want to go ahead?

6 MR. MATLOCK: Yes, I do. A few more comments  
7 that I'd like to offer. In the course of dealing with  
8 the development and the implementation now of the  
9 Highly Migratory Species Fishery Management Plan and  
10 the Billfish Plan Amendment 1, we have as individuals I  
11 think, not necessarily as Agency representatives but as  
12 individuals have been pretty well attacked. And I for  
13 one don't find that particularly disturbing because  
14 I've been attacked individually in many different ways.

15 But I do find it very, very, disturbing from  
16 the standpoint of the staff that works for us who have  
17 very deliberately tried to respond and to address  
18 everything that everyone has raised.

19 My comment to you today is that I would like  
20 to make sure that you know that there are no underlying  
21 motives that these individuals have in carrying out the  
22 work that they do with the Agency. There is no hidden

1 agenda that they're trying to carry through. We are  
2 trying to be as open, as transparent, as responsive to  
3 you, as we possibly can be.

4 The quota cap is one example of that where the  
5 status quo would have meant that there would have been  
6 a cap that would have remained in place, and that's  
7 what the panel recommended to us. We brought this  
8 issue to you to get your comments, not to shove  
9 something down your throat but to get your comments on  
10 what you thought about it.

11 You very, very, politely and very courteously  
12 and very thoroughly responded to that for us today, but  
13 injected in that are still some accusations about us  
14 being everything from a dead rock to the devil  
15 incarnate. I don't mind that. If you address it and  
16 attack me, that's fine. But I would sure appreciate it  
17 as individuals if you would not do it to our staff.  
18 They don't deserve it, it's not true, and it's simply  
19 discourteous and it's wrong.

20 So anything you can do to correct that both by  
21 anyone on the panel who may participate in it or by any  
22 of the public with whom you represent or interact, I

1       would very much appreciate that because the staff here  
2       don't deserve it, guys.

3               That's all I have to say, Jack. Thank you.

4               MR. DUNNIGAN: Thank you, Gary.

5               MR. McBRIDE: Can I just answer Gary on that  
6       too because maybe some things he missed.

7               MR. DUNNIGAN: Quickly, please.

8               MR. McBRIDE: Yeah, I will be quick. I'm a  
9       retired administrator and a civil service position is  
10      irrelevant similar to, analogous to what you ladies and  
11      gentlemen are doing up there. And I think all of us,  
12      and I certainly know I have, using that analogy before  
13      I say anything, telling people we're not attacking the  
14      individuals. We understand the politics. We  
15      understand that the officer on the beat carries out the  
16      regulations made by the legislature and so forth and so  
17      on.

18              We might disagree with you. We might become  
19      angry at the issues involved, but we're not angry in  
20      any way, shape or form, nor is the public or should  
21      they be, at the individual. But this group -- and I've  
22      seen it done many times -- let's everybody know we're

1 not attacking them personally. I certainly have done  
2 it almost every time I speak just so, you know, to  
3 rectify what you say. I hope that was carried to you  
4 in the past. If there's other issues behind the scenes  
5 that are not public I don't know anything about them.

6 All right, Gary?

7 MR. DUNNIGAN: Okay. Thank you all. We're  
8 going to move into the time/area closures discussion.  
9 It's about ten minutes until 11:00. We have a lunch  
10 break scheduled and I don't know whether we're going to  
11 be able to, like, go straight through and get this done  
12 and get out early, whether we're going to want to spend  
13 a lot of time talking. For the moment, my assumption  
14 is that we're going to want to take a lunch break and  
15 come back but we can re-evaluate that in about an hour  
16 or so.

17 Now, yesterday we had a series of  
18 presentations from the staff and from some -- from an  
19 ICCAT commissioner and a representative from Capitol  
20 Hill and from the Billfish Foundation, and a lot of  
21 information was given to you.

22 And we asked you to make sure that you, you

1 know, take that back to your rooms last night, look at  
2 it, see what your reactions to it were and whether or  
3 not there were further clarifications or questions that  
4 you wanted to ask.

5           The issues, I think, are fairly similar  
6 perhaps to what we talked about this morning in terms  
7 of the plans in place the National Marine Fisheries  
8 Service has given us the general topic of time/area  
9 closures and some approaches to it. And, basically,  
10 they're looking for guidance from the advisory panels  
11 as to where they ought to be going next with this kind  
12 of an issue as they decide how to develop down the road  
13 a proposed rule.

14           So I suspect that there are still some  
15 questions around the table or clarifications or further  
16 explanations that you'd like to have, but beyond that I  
17 don't have any particular issues, order, or structuring  
18 of the discussion to go through.

19           But I would suggest that we start by keeping  
20 our questions focused on continuing to flesh out and  
21 understand the various issues that were presented to us  
22 yesterday and we'll move ahead.

1           Let's start with Nelson Beideman.

2           MR. BEIDEMAN: Nelson Beideman, Blue Water. A  
3 couple of things, if I could. One on the process.  
4 When we get to the discussions I would like, I would  
5 request very much, that Glen Delaney be included  
6 because he's been the chief negotiator between the  
7 parties that have been working on the legislative  
8 proposal.

9           I would also like to draw everyone's attention  
10 to a handout that came out this morning, okay. This  
11 comes from Dr. John Hoey (phonetic) who could not be  
12 here today. I am not a scientist but what I read from  
13 John's work here is that there has been 223 observed  
14 trips in this area, you know, this subset of 223  
15 observed trips that used live bait out of a total of  
16 1,277 observed trips in the Gulf, and that live bait  
17 versus dead bait used CPUE comes out to a 1.6 increase  
18 on blue marlin, 2.97 on sailfish, 2.17 on white marlin.

19           These increases in bi-catch for only 1.43  
20 increase in targeted yellowfin tuna catches. And  
21 again, I'm not a scientist. Perhaps John Graves or  
22 Phil, you know, could explain this to you more clear,

1 but thus far I've gotten indications from the industry  
2 perspective that this may well be a more overall more  
3 protective way to take into consideration for billfish  
4 protection in the Gulf of Mexico for less of an impact  
5 on the targeted fishery. And one, two, three, extra  
6 yellowfin tuna per day for this amount of bi-catch, you  
7 know, should be looked at.

8 And when we get into the discussions on the  
9 Gulf of Mexico also I'd like everyone to make sure they  
10 have the one-degree squares that I passed out  
11 yesterday, the average annual catches, both pluses and  
12 minuses, targeted catch and, you know, what we're  
13 trying to avoid, so that we can discuss that.

14 Is there any problem as far as Glen  
15 participating in the discussions as a negotiator?

16 MR. DUNNIGAN: Gary.

17 MR. MATLOCK: Nelson, I don't have any problem  
18 at all with Glen participating but I have a question  
19 for you relative to the material that you've given us  
20 from John.

21 MR. DUNNIGAN: Before you -- my approach to  
22 this would be that if Glen or any of the other ICCAT

1 commissioners would want to be with us I'm sure that  
2 would help the discussion. So, Glen, please feel free.

3 Thank you. Gary.

4 MR. MATLOCK: With respect to this material,  
5 is this material being presented from John as an  
6 employee of National Marine Fisheries Service or in  
7 some other capacity?

8 MR. BEIDEMAN: This is preliminary segments  
9 from a grant that Blue Water is part of, John was, you  
10 know, the -- what do they call it, the chief person,  
11 you know, for the grant prior to his employment with  
12 National Marine Fisheries Service. And, you know,  
13 yesterday I had spoke of a subset that included live  
14 bait and tending and it was very interesting  
15 information and, you know, John run this fuller, you  
16 know, all live bait information so that we could take a  
17 look at it.

18 I don't know how to answer your question. I  
19 would think that, no, it's not an official from  
20 National Marine Fisheries Service. It is a preliminary  
21 from this grant work that's being done by a NMFS  
22 employee. I think it's very valid that we consider it

1     and perhaps evaluate how to get a fuller analysis so  
2     that we can make proper decisions.

3             MR. DUNNIGAN: Gary.

4             MR. MATLOCK: Let me just make sure that  
5     everyone knows that as far as National Marine Fisheries  
6     Service is aware, this is not from the Agency. We have  
7     no information relative to it, its validity, the  
8     details or anything else associated with it, so this is  
9     not a National Marine Fisheries Service set of  
10    information or presentation nor any relationship with  
11    us.

12            MR. DUNNIGAN: Joe McBride, I haven't lost you  
13    but we're going to spend a minute or two first just  
14    talking about the --

15            MR. BEIDEMAN: Could I finish first, Jack?

16            MR. DUNNIGAN: Well, there are a couple of  
17    people that had some clarifications, Nelson, but if you  
18    want to finish, go ahead.

19            MR. BEIDEMAN: Okay. Well, I think Gary  
20    brings up a very valid and very accurate point, and  
21    what we're basically looking at here is we've got three  
22    different sets of data and, obviously, some of it is

1 not compatible. And, you know, the National Marine  
2 Fisheries Service data is quite complex and we've just,  
3 just, gotten it.

4 One of the things that we need to think about  
5 here is that, you know, why can't we come together and  
6 come down to one set of data because it all originates  
7 from the same place. I'm sure it's all valid, you  
8 know, information. But one set of data is one of the  
9 considerations.

10 One other thing, Jack, I'd like to mention is  
11 that the groups that have been working on the  
12 legislative effort, you know, have agreed to caucus  
13 during the lunch period which could be quite important  
14 discussions.

15 Thank you.

16 MR. DUNNIGAN: Mau, did you have a quick  
17 clarification, too?

18 MR. CLAVERIE: Yeah. Nelson, Mau Claverie.  
19 The 1.6, 2.97 and those numbers on the right-hand  
20 column that you referred to, the handwritten-in  
21 numbers, is that percentages or multiples?

22 MR. BEIDEMAN: (Inaudible.)

1 MR. CLAVERIE: So it's a multiple?

2 MR. BEIDEMAN: It's live bait --

3 MR. CLAVERIE: It's 1.6 times? It's not 1.6  
4 percent, right?

5 MR. DUNNIGAN: Nelson.

6 MR. BEIDEMAN: Nelson Beideman, Blue Water.  
7 It's live bait CPUE to dead bait CPUE. What they call  
8 whole bait.

9 A PARTICIPANT: So 1.6 times more with live  
10 bait than dead bait.

11 A PARTICIPANT: It's a multiple.

12 A PARTICIPANT: Yes.

13 MR. BEIDEMAN: Yes. From what I understand,  
14 Mau, the average, you know, in the fleet in the other  
15 areas is .6.

16 MR. CLAVERIE: You mean live bait doesn't do  
17 as well?

18 MR. DUNNIGAN: Nelson.

19 MR. BEIDEMAN: .6 for dead bait, you know,  
20 throughout. So that's the type of increase we're  
21 looking at.

22 MR. DUNNIGAN: David.

1           MR. WILMOT: This is ridiculous. I have a  
2 major objection to have information presented in such a  
3 poor form with no time to prepare for it, and then  
4 we're going to have a discussion? This is completely  
5 unacceptable.

6           If we are going to have a discussion about an  
7 issue, I would like to have it prepared properly. I  
8 would like to have a presentation with background  
9 material, et cetera. I am a scientist and I don't know  
10 what the hell this represents.

11          I would like to ask that this discussion be  
12 terminated and we move back to the agenda.

13          MR. DUNNIGAN: Well, the agenda is a  
14 discussion of time/area closures and I think that any  
15 advisory panel members got the opportunity to bring  
16 forward whatever they want to that would be relevant  
17 to --

18          MR. WILMOT: Well, then let me just follow up  
19 directly on this. If anyone can bring something  
20 forward, I request that the organization that's  
21 controlling this meeting have the ability to say, no,  
22 it's inappropriate, the AP members have not had

1     adequate time to review it, they don't know what  
2     they're discussing, we'll discuss this at the next AP  
3     meeting.

4                 How am I to respond intelligently about this  
5     when it was just handed to me? And I don't even know  
6     what it represents. There's not even a heading. Let's  
7     see, pelagic longline data. I'm asking Rebecca to make  
8     a decision here directing this meeting.

9                 MR. DUNNIGAN: We have John Graves and then  
10    Jim Donofrio and then Bob Hayes -- Bob Zales. And we  
11    still never got to Joe McBride. We've got to let Joe  
12    McBride in, too.

13                MR. GRAVES: Joe, go ahead.

14                MR. McBRIDE: No, I mean (inaudible). Joe  
15    McBride for New York, whatever. There is a problem  
16    with the time and area closures and their ancillary  
17    scenario with the buyout. After a discussion with some  
18    of my colleagues a concern has arisen, and someone  
19    mentioned it yesterday. I think someone over here from  
20    the commercial side, regarding the New England  
21    fisheries.

22                We do not want -- or I certainly do not want,

1 I should say -- a buyout program that takes surplus  
2 boats off swordfish in the southern zones or any zone  
3 and transfers them to yellowfin up in northeast. So a  
4 buyout program, my feeling is, should include just as a  
5 New England buyout to the ground fisheries, a  
6 termination of those boats in the fishery, just  
7 philosophically.

8 Thank you.

9 MR. DUNNIGAN: John Graves.

10 MR. GRAVES: John Graves. In response to  
11 David's comment, I would note that the information that  
12 the National Marine Fisheries Service presented  
13 yesterday was also dropped on us in a similar fashion  
14 and, furthermore, that there was probably not a proper  
15 explanation of the experimental design when the charts  
16 were put up. So it's not unprecedented. I think maybe  
17 the advisory panel would like to consider, you know,  
18 getting the stuff with better presentations and  
19 beforehand, but I would also like them to ask Nelson to  
20 clarify a few points.

21 As I understand that this is preliminary data  
22 that John has gleaned from his SK grant, okay. Then I

1 would like to ask you whether these represent observed  
2 sets in terms of live bait -- there are a couple of  
3 questions.

4           Whether this represents observed sets of live  
5 versus dead bait, and then relative to the log books  
6 what the actual ratio of live bait to dead bait sets  
7 is, because here in the observed one it's between 20  
8 and 10 percent and if there is going to be an effect  
9 here we really want to know what's occurring in the  
10 area in terms of the actual numbers of live bait and  
11 dead bait sets.

12           MR. DUNNIGAN: Jim Donofrio.

13           MR. DONOFRIO: Just to clear the record a  
14 little bit. I have no objection, of course, to having  
15 Glen speak on behalf of Nelson's plan here. But I  
16 would like for the record, is Glen speaking as the  
17 commissioner or is he speaking as a lobbyist for Blue  
18 Water, if we could get that on the record.

19           Thanks.

20           MR. DUNNIGAN: Well, if Glen participates I'm  
21 sure he'll indicate that at the time. Thank you.

22           Bob Hayes.

1           MR. HAYES: I have actually two comments.

2       One, I think it would be a reasonably good idea for the  
3       Agency to clarify the status of one of their employees  
4       with respect to any events that he may be engaged in  
5       outside of his normal scope of employment.

6           I'm not pointing fingers and I'm not  
7       suggesting that there is anything improper, but I am  
8       suggesting that if I took Nelson's interpretation -- I  
9       haven't been an conflicts advisor for 15 years -- but  
10      I'd be nervous. And so I would suggest the Agency look  
11      into that, only to clarify. Only to clarify.

12           The second thing I would suggest is, you know,  
13      I think David's point and John Graves' points are good  
14      points. What we have gotten here in the last couple of  
15      days is an enormous amount of information which every  
16      scientist in this room has come up to me and said I  
17      don't understand the modeling, I don't understand how  
18      they did this, I don't understand the assumptions, I  
19      can't determine what the variables are in the analysis.  
20      And that's not to say that it isn't good work. You  
21      know, I'm a lawyer. I don't know. It might be very  
22      good work.

1                   But what I would suggest both from moving  
2 forward in the process that Gary has begun here and  
3 moving forward, frankly, in the process that Nelson has  
4 talked about, that a uniform set of data and a uniform  
5 set of facts and understandings and the implications of  
6 moving, you know, gear our or vessels out, and I mean  
7 by that a uniform, open, and transparent discussion of  
8 those things, I think is a useful thing for all  
9 parties.

10                  I believe that there will be decisions made in  
11 the next three months and certainly in the next six  
12 months about closed areas in the United States,  
13 implications for longline fisheries, implications for  
14 recreational fisheries, and implications for stocks  
15 that are caught as part of the bi-catch which will be  
16 pretty significant decisions.

17                  And I think what we have at the moment is a  
18 very good start towards some analysis but we don't have  
19 a uniform understanding and a transparent understanding  
20 of the facts.

21                  And so what I would suggest is that really  
22 move to a debate not so much on whether, you know, SWO-

1     3 is a nifty idea or whether the billfish idea in the  
2     Gulf is a great idea but, rather, a debate around two  
3     central themes.

4             The first central theme would be: What is the  
5     objective? I think David rose this yesterday. What  
6     are we trying to get done here? Are we trying to  
7     reduce bi-catch with the minimum impact on the directed  
8     fishery so that there is a correlation here between  
9     what happens in the directed fishery and what happens  
10    in bi-catch? I kind of thought that's what we were  
11    trying to do but, you know, is that the overall  
12    objective? Is that the one people want to focus on?

13            And then the second thing I would suggest is a  
14    discussion -- and I invite the scientists in particular  
15    to participate in this -- a discussion of, all right,  
16    then what kind of data, what kinds of understandings do  
17    we need to make that policy decision? I would suggest  
18    that as a framework for the debate.

19            MR. DUNNIGAN: Thank you. Bob Zales, Rebecca,  
20    and Russ Nelson.

21            MR. ZALES: Bob Zales. I for one want to see  
22    some of this information on the live bait versus dead

1     bait on these longlines because anecdotal information  
2     that I get from people that I know that longline in the  
3     Gulf of Mexico indicate to me that live bait is a  
4     tremendous problem, and especially when it comes to the  
5     bi-catch.

6             And talking about how information is laid on  
7     this panel when we just get here, until yesterday I  
8     never saw anything on this buyout program so this is  
9     all brand new to me and I'm still not fully up to speed  
10    on it and right now currently tend not to support a  
11    buyout for various reasons. One is because of the  
12    precedent that it's going to set, especially in the  
13    Gulf of Mexico.

14            As an example with my red snapper fishery. I  
15    mean, currently I've got a serious problem with that.  
16    We get into buying people out of business because they  
17    can't make money for one reason or another to me is a  
18    problem with me spending my tax money to do that. So I  
19    want to see all the information we can get if it's just  
20    laid on me in the last five minutes. That's where I  
21    stand.

22            MR. DUNNIGAN: Thank you. Rebecca.

1           MS. LENT: Thanks. Just in partial response,  
2   in scheduling this advisory panel meeting we had to  
3   balance two factors. One was we wanted to address  
4   time/area closures and other means for dealing with bi-  
5   catch as quickly as possible. The second thing is we  
6   wanted to do as much analysis as possible so that we  
7   could really get the discussion going.

8           Because of that trade-off, yes, indeed you got  
9   the materials when you walked in the door and that's  
10  the result of the trade-off. We want to try and get  
11  these materials reviewed by you and get the discussion  
12  going, so that was the trade-off that we decided to  
13  have.

14           We did allocate the greatest part of this  
15  meeting, and we can stay here until 6 o'clock tonight,  
16  to a discussion of time/area closures. That's the  
17  biggest time we gave. We tried to give a presentation  
18  yesterday. I understand some people weren't satisfied  
19  with the presentation. We're happy to get back up and  
20  explain some more.

21           Jack did ask you all to take another look at  
22  it last night. I admit it took me a couple hours to

1 get this stuff really assimilated to what does it mean  
2 and how to interpret it, but we're happy to spend as  
3 much time as necessary.

4 Now, we did invite advisory panel members who  
5 expressed an interest to have their folks come and give  
6 presentations as well. The focus was on time/area  
7 closures. There is some new information here today  
8 relative to live bait/dead bait and Stevie brought that  
9 up yesterday. I think it's relevant.

10 But, again, all of these materials that are  
11 coming in are not NMFS materials. In some cases we had  
12 presentations which helped elucidate what was going on.  
13 So I just encourage you to continue the discussion. I  
14 think Bob's ideas are good as well.

15 MR. DUNNIGAN: I think, and as I said at the  
16 beginning, this is going to be an ongoing process and  
17 we're certainly interested in seeing where we can go  
18 today. And important part of what we're going to be  
19 able to tell the National Marine Fisheries Service is  
20 what more analytical work does the group want to see  
21 for next time we come back.

22 We've got Russ, then Steve, Bob Spaeth and

1 Corky, and John. Russell Nelson.

2 MR. NELSON: In that vein, Jack, I think, you  
3 know, the Service knew the importance of the bi-catch  
4 reduction issue and I think that's probably one of the  
5 reasons that we've got this meeting and have it at this  
6 time, and I would tend to look at the analysis that  
7 were presented to us as very preliminary.

8 There has not been a controversial fisheries  
9 management decision made in this country in my career  
10 where the data did not undergo the most intense debate  
11 and scrutiny, and I think we need to -- HMS office  
12 needs to avail themselves of the same process that we  
13 use at the councils or that ICCAT uses. I think that  
14 I'm interested in the analysis that was presented  
15 yesterday. I'm interested in more detail of that  
16 analysis.

17 And in response to your comments, Rebecca, I  
18 mean, I came prepared to offer a whole bunch of  
19 alternatives for looking at different scenarios for  
20 effort shifting and the like, but I don't really think  
21 that this is the forum to do that.

22 I think that perhaps as we do in the

1     northeast, as we do in the southeast, that a stock  
2     assessment workshop should be held wherein the NMFS  
3     folks come in and other interested parties can come  
4     and, if not participate, at least observe, and that we  
5     try to come to some sort of peer, you know, concurrence  
6     on how the analysis is done and what some of these  
7     assumptions should be and what sort of scenarios should  
8     be made.

9             I mean, we do this routinely with all our  
10    fishery, you know, annual assessments and updates, and  
11    I think we need to do this. There is no way that we're  
12    going to be able to come through this with the kind of  
13    analysis that have been presented thus far and get to a  
14    successful conclusion. I think we need to have a  
15    larger, if not just a peer review of your assessment  
16    techniques, I mean that would be one approach.

17            I would tend to recommend that there be a  
18    stock assessment workshop where qualified scientists  
19    come and participate -- no, I'm not talking about -- I  
20    wasn't casting an allusion. I mean qualified  
21    scientists from within the Service and from without the  
22    Service. I've never participated in one of these in

1     which the inclusion of a more diverse range of  
2     experience has not resulted in an improved product. I  
3     was not impugning the science. I'm just saying that  
4     it's been my experience that whenever you get a larger  
5     group of scientists together who have faced similar  
6     problems in other contexts that you can gain from that.

7             I think we should move to that. I agree with  
8     Bob. I think we should -- at this time we would  
9     benefit from trying to look into setting some kind of  
10    goal or some advice as to what the goal ought to be in  
11    terms of achieving bi-catch.

12            But I would strongly suggest that either a  
13    peer review or some sort of open assessment workshop be  
14    conducted so we can all come to grips with the  
15    information that NMFS has presented, with the  
16    information that Blue Water has presented, with the  
17    information that TBF has presented, and try to unify  
18    it, you know, in a single context that we can all  
19    understand so that the next time the data is presented  
20    to the advisory panel there will be a lot more  
21    essential confidences, particularly among the lay  
22    folks, you know, that it's the best data we have and

1     it's the best way to approach and analyze the problem.

2                 MR. DUNNIGAN: The last couple of comments  
3     have been taking us away from process and more towards  
4     some of the substance. So I would ask you as we  
5     continue to go through this discussion try to focus on  
6     some of those issues of what is it we're really trying  
7     to do here and what further analytical work or  
8     information do you think you would want to see in order  
9     to have a good discussion about this.

10                Our list is long. We've got Steve, Bob,  
11     Corky, John, Randy, Ray, Nelson, and Ellen. That's the  
12     way they came up. And then Mau. Steve Loga.

13                MR. LOGA: One of the reasons that we looked  
14     at live bait is that in the areas or the times of the  
15     year that we had the most, I guess, interaction with  
16     billfish is during the summertime, and those times of  
17     the year are the times that we use live bait the most.  
18     I think some of this data that we present is probably  
19     incomplete because I think there was a lot more live  
20     baiting than with the data -- the observed log book  
21     data -- suggested, which would mean that possibly live  
22     bait would be even more of a -- I guess more numbers of

1 fish are caught with live bait than we probably show in  
2 here.

3 In our discussions with TBF and CCA I think  
4 that's one of the things we looked at. Live bait is  
5 possibly a way to reduce bi-catch of billfish rather  
6 than closing down a multi-million dollar fishery for  
7 four months out of the year in the Gulf of Mexico.

8 MR. DUNNIGAN: Bob Spaeth.

9 MR. SPAETH: (Inaudible.)

10 MR. DUNNIGAN: Right on the mike, Bob.

11 MR. SPAETH: This is kind of maybe a question  
12 for Nelson. On these closed areas when we're talking  
13 about the buyback, is that all tied together in your  
14 proposal.

15 I guess what I see as Nelson is doing is  
16 bringing a suggestion to the table about closed areas  
17 and how to minimize the negative impact on his people.  
18 And, you know, whether the buyback goes through or not  
19 I just wanted to know is some of your suggestions that  
20 are going to come forth as far as closed areas tied to  
21 a buyback?

22 MR. DUNNIGAN: Nelson, (inaudible).

1           MR. BEIDEMAN: A quick answer to that? Yes,  
2     some of it is tied to the buyback. Okay. I think  
3     Senator Breaux's office made it very clear yesterday  
4     that, you know, we're looking at two different separate  
5     focuses as far as the legislative perspective of  
6     things, okay.

7           In answer to John's previous question directly  
8     to me, John Graves, yes it is observer. The only ratio  
9     that I would have is the ratio that's on this sheet and  
10    I do not know how much is in the log books. But,  
11    overall, to try to ease some of the fears of, you know,  
12    the AP and Dave's anxiety in us having put this out, I  
13    don't for any intents or purpose think that this is  
14    anything that's complete. I wouldn't say that the AP  
15    should be making any decisions on it.

16           What we attempted to do in bringing this out  
17    is to raise the issue that there may be an option for  
18    the particular billfish situation in the Gulf of Mexico  
19    that may be able to get more bang of bi-catch reduction  
20    for less directed targeted fishery impact.

21           And I would certainly hope that the AP would  
22    strongly recommend to the Fisheries Service that they

1 take this raising of the issue and analyze it and  
2 present that information to us so that we have concrete  
3 information to go by.

4 MR. DUNNIGAN: Corky Perett.

5 MR. PERETT: Thank you, Mr. Chairman.

6 (End of Tape 4, Side B.)

7 MR. PERETT: -- the point about data being  
8 brought up at the last minute and so on and so forth is  
9 good, but I mean if we're going to draw the line fair  
10 and consistent we've got to start somewhere, and that  
11 should be decided ahead of time.

12 Thanks.

13 MR. GRAVES: My question is kind of shifting  
14 over to the NMFS proposals for closures in the Gulf,  
15 and I have already asked this question to Karyl but  
16 maybe somebody else can shed a little bit of light on  
17 this.

18 In the handouts that we got that showed the  
19 discards for billfish show a lot of the discards  
20 occurring in the Mexican EEZ and when these proposals  
21 were put together and the analysis was run it shows  
22 polygons that extend down into the Mexican EEZ. And I

1 understand that maybe the analysis was done just  
2 strictly based on discards and what this data shows.

3 Why do we have discards in the EEZ in this  
4 data? Is that misreported information? Are those guys  
5 fishing illegally down there? And with the proposals  
6 here, how does that weigh into the Mexican EEZ and why  
7 are we showing polygons for fisheries management in the  
8 U.S. going all the way into Mexican waters.

9 MR. DUNNIGAN: Rebecca, can you answer that?

10 MS. LENT: It's what the fishermen reported.  
11 We're using log book data here and it could be an error  
12 in what they wrote in their log books, it could be that  
13 they were lost. It could be -- I don't know. I ask  
14 maybe Stevie (phonetic) and others to compare that.

15 And yesterday we had the question, well, if  
16 you're really closing this big block then you're  
17 closing part of the Mexican EEZ. And I think the legal  
18 counsel was that while we can't declare a time/area  
19 closure in someone else's EEZ we could declare it for  
20 our boats even outside the U.S. EEZ as long as it's not  
21 in someone else's. So these are the data as reported.

22 MR. DUNNIGAN: Ray Bogan.

1                   MR. BOGAN: Thanks, Jack. Ray Bogan. Just  
2     from a procedural standpoint, I hope we would just move  
3     on and start debating this stuff and get into it  
4     because I don't know, I've come to a lot of meetings  
5     over many years and not just in the context of highly  
6     migratory species but in everything that I've addressed  
7     before councils, commissions, et cetera, and I have  
8     always been handed stuff the day of the meeting. It's  
9     no big deal. Dave has a different experience than I do  
10    but just in however many years, 20 years or whatever  
11    I've been doing this, that's my experience.

12                  I thought Ellen's presentation yesterday was  
13    top notch. It was --

14                  MS. PEEL: -- Dr. Goodyear's.

15                  MR. BOGAN: It was Dr. Goodyear's. Whatever.  
16    I mean, the point is the stuff was put upon us. I  
17    didn't feel particularly burdened, probably because I  
18    don't understand it as well as a scientist would, but I  
19    would suggest that we be given an opportunity to just  
20    debate it.

21                  If I don't agree with Nelson's data, I'm going  
22    to tell Nelson I don't agree with your data. I

1 recognize it's preliminary, and I'm a lay person. I  
2 already know it is.

3 And I think with Tom, I think the more  
4 scientifically knowledgeable people are going to  
5 recognize it's preliminary also and we'll be able to go  
6 somewhere. But let's get the process going.

7 MR. DUNNIGAN: That's what we're doing. We're  
8 sort of beyond that first issue and we are on to talk  
9 about some issues.

10 John Wingard.

11 MR. WINGARD: John Wingard. In terms of  
12 substance the type of data, I mean, but it's been  
13 presented obviously at the last minute or whatever, as  
14 Corky has already mentioned. I think the types of data  
15 I would like to see in response to Bob Hale's  
16 suggestion that express what we need is definitely  
17 social and economic information.

18 What I see totally missing and from my  
19 perspective is essential for being able to make  
20 rational decisions about the trade-offs are things like  
21 the number of fishermen impacted by different  
22 scenarios, the geographic and sectoral distribution of

1 different scenarios, obviously the economic impacts of  
2 different scenarios.

3           And I recognize a lot of this data doesn't  
4 currently exist. I'm not sure what the logistics of  
5 collecting it are, but at least if we could look at  
6 some of the underlying assumptions and with these types  
7 of variables in mind do some sensitivity analysis would  
8 give us some idea of the social and economic impacts.  
9 I think ultimately what people respond to are how it  
10 affects them personally and I think it's important that  
11 we need this kind of data so we can make these types of  
12 assessments in relation to the biological costs and  
13 benefits that are involved.

14           MR. DUNNIGAN: We have Nelson, Ellen, Mau,  
15 Steve, and Russ Dunn. Nelson Beideman.

16           MR. BEIDEMAN: One of the points I would like  
17 to raise to NMFS HMS is that I think what we need is to  
18 get a format down to catch per unit of effort so that  
19 we can identify true concentrations where, you know,  
20 hot spots where, you know, bi-catch is as far as the  
21 closed area scenario.

22           And I agree entirely on the socioeconomic

1 information that's necessary. We don't know where the  
2 cutoff is, but if you take a substantial area and you  
3 close it, well, maybe you can put those guys out or one  
4 month and they can survive, maybe even two months,  
5 maybe in a year where they don't already have two  
6 months of closure of swordfish because of the quota.  
7 Three months, you're looking at people going out of  
8 business.

9           When you start broaching into three months,  
10 definitely by four months, you're putting people out of  
11 their livelihoods and their traditional way of life.  
12 And I would strongly contend that that deserves  
13 compensation.

14           MR. DUNNIGAN: Ellen Peel. I guess I was  
15 going back to the first part of this discussion  
16 following up what Russ Nelson said and but then Corky,  
17 I would not recommend waiting for a stock assessment  
18 because we have a stock assessment and we have another  
19 one scheduled for the year 2000.

20           I was going to recommend perhaps a technical  
21 working group, not meaning ICCAT necessarily but a  
22 technical working group so that all this data, whether

1     it's on live baits or the information that Dr. Goodyear  
2     presented in National Marine Fisheries Service that  
3     this could be put together and then brought to the next  
4     AP meeting.

5             If we could get a technical group together  
6     this summer, maybe bring AP back the -- both groups in  
7     the fall, October maybe, and then move forward. I  
8     mean, I don't know whether we can have a meaningful  
9     discussion with some of these questions unanswered this  
10    afternoon.

11            MR. DUNNIGAN: I understand that, and I think  
12    that's what Russell was suggesting, some kind of a --  
13    not a stock assessment but a peer review like the ones  
14    we do in stock assessments. Some kind of a peer review  
15    process.

16            MS. PEEL: But a technical review of the  
17    different scientific information that's been presented  
18    on the different areas.

19            MR. DUNNIGAN: Right. Mr. Claverie.

20            MR. CLAVERIE: Thank you. Mau Claverie.  
21    Three things. The first one is administrative. This  
22    is an important subject. I don't mind working late on

1     it but, Rebecca, there are logistics involved with that  
2     so if we are going to work late I'd like to know soon  
3     enough to change airplanes and maybe find a place to  
4     spend the night here and all that soon enough to do  
5     that.

6             One of the problems involved with the bi-catch  
7     is, of course, the mortality that results from the bi-  
8     catch. And all of the fish in the longline -- all of  
9     the billfish in the longline fishery need to be  
10    released whether they are alive or dead.

11            And one of the complaints that we have heard  
12    in the Gulf since the live longline baiting started is  
13    that those fish that swallow those baits are deep-  
14    hooked and their survival after they swim off may be in  
15    question to a much greater extent than the fish that  
16    are hooked with frozen bait. Apparently, a fish who is  
17    used to eating live fish, the first thing that fish  
18    does when he gets a frozen fish in his mouth is say,  
19    ick, and so that is a difference.

20            And, apparently, this data, the observer only  
21    reports that the fish swam off, and if we can get  
22    anything on ultimate survival as relative to live

1       versus dead bait that might be important too.

2                   The historical data that shows the impact on  
3       the recreational fishery in the Gulf brought about by  
4       longlining activities is based on a longline fishery  
5       that used only frozen bait, so I don't know that the  
6       live -- getting real live bait would bring us back to  
7       where we want to be, but that's the historical thing.  
8       So if changing back to only frozen bait gets us back to  
9       where we were historically, we haven't gotten there  
10      yet.

11                  MR. DUNNIGAN:   We've got Steve Loga, Russ  
12      Dunn, John Graves, Randy, and then Nelson.   Steve Loga.

13                  MR. LOGA:   I have to agree with Ellen about  
14      getting a technical group together to work through some  
15      of these things.   There is a lot of unanswered  
16      questions that I don't have on live bait.   I think we  
17      should look at those ideas also.

18                  MR. DUNNIGAN:   Russ Dunn.

19                  MR. DUNN:   Russ Dunn, Ocean Wildlife Campaign.  
20      I have two points to address.   First, I'm concerned  
21      about where we're going here with this discussion of  
22      live bait/dead bait.   We're hear to talk about closed

1 areas and their role in reducing bi-catch of discards.

2 Certainly this live bait/dead bait discussion  
3 can at some point play a role in the reduction of bi-  
4 catch, but we are no here to discuss a new issue that  
5 is somewhat unrelated. And I think we need to get back  
6 to what either Bob Hayes or Russ Nelson said which is  
7 what are our goals. We need to establish what our goal  
8 is for this meeting. Do we have a set number?

9 The OWC has suggested in the past a goal of 75  
10 percent bi-catch reduction. Do we agree with that? Do  
11 we not agree with that? And how can we achieve that?  
12 So I think we need to shift the focus away from this  
13 somewhat unrelated issue, which is great conversation  
14 for another meeting but is not relevant to this  
15 particular meeting.

16 And on Ellen's suggestion of delaying the  
17 discussions until October, that's completely  
18 unacceptable. We've got a commitment from Penny to put  
19 something forward by September 1st. Delaying the  
20 discussions until October is completely unacceptable.  
21 We can't afford a delay.

22 We've been talking about closed areas -- NMFS

1     has been talking about closed areas since 1984 in the  
2     first swordfish amendment. It has now been 15 years  
3     since those discussions began. In 1990 ICCAT  
4     recommended that closed areas be implemented as part of  
5     an overall scheme to reduce juvenile bi-catch. It has  
6     been nine years since that recommendation came out and  
7     it's time to fish or cut bait.

8                 MR. DUNNIGAN: Panel members, rather than  
9     continue to suggest that we get on to the issue that  
10    Bob Hayes and Russ Nelson talked about, can I suggest  
11    that you go ahead and do it? And we've got John  
12    Graves, Randy, Nelson, Bob Hayes, Steve, Robert  
13    Fitzpatrick.

14                MR. GRAVES: I believe you are commissioned  
15    here to facilitate this discussion and I believe that a  
16    motion essentially was put forward by Bob Hayes that we  
17    focus on two specific things, the first being the  
18    objectives, what are the objectives, and then secondly  
19    the options to achieve those objectives and the kinds  
20    of data we would need.

21                I would suggest that you bring it forth to the  
22    committee that you follow this up and actually sit

1     there with a white board or with a transparency and  
2     let's try and do something concrete rather than groping  
3     around here, a bunch of blind people trying to feel out  
4     the elephant. I think it's your job here to facilitate  
5     this discussion and if it's the committee's pleasure to  
6     go ahead with -- and it seems to be from the comments  
7     I've heard to follow up on Bob's objectives, why don't  
8     we go ahead and do that?

9                 MR. DUNNIGAN: Panel members, is that how you  
10    want to proceed? Can we go ahead and do that, focus  
11    our discussion around those two questions that Bob  
12    Hayes set out for us? The first question that's in  
13    there is what is the objective.

14                What is it we want the National Marine  
15    Fisheries Service to try to accomplish through a series  
16    of consideration of time/area closures Is that -- now,  
17    that's what we're going to go talk about. Is anybody  
18    objecting to that process? Otherwise, I'm going to  
19    stick with the list that's on here already and, Robert,  
20    you're on it.

21                Process? All right. Nelson, is it a process  
22    question or do you want to get into the substance

1     because there's only one before it's your turn anyway.

2             MR. BEIDEMAN:   Right.   I'm just saying that  
3     when my time comes up I would need to respond to some  
4     of the things that have been raised during the general  
5     discussions.

6             MR. DUNNIGAN:   Okay, briefly do that.   All  
7     right, so the focus of the discussion, Bob Zales, I  
8     have you, Mau, I have you.   But the focus of the  
9     discussion is on the issue of objectives, not so much  
10    the objectives of what we're trying to do here today  
11    but what are the objectives of having time/area  
12    closures and what is it we're trying to do as a couple  
13    of people actually spoke about yesterday.

14            The list is Randy Blankinship, Nelson  
15    Beideman, Bob Hayes, Steve Loga, Robert Fitzpatrick,  
16    Bob Zales, and Mau Claverie.   Randy.

17            MR. BLANKINSHIP:   My comment and question is  
18    going to be more of a substance nature so I would delay  
19    that till later on.

20            MR. DUNNIGAN:   Fine.   Nelson.

21            MR. BEIDEMAN:   Nelson Beideman, Blue Water.  
22    First off, I think there has been very good ideas that

1     have been raised around the table. The idea of a  
2     technical working group I think would be absolutely  
3     wonderful.

4             I think that we would, you know, inherent in  
5     that would, you know, would have to be that we have the  
6     opportunity for both commercial and recreational  
7     industry scientists' input and representatives in that  
8     process if that were to take place.

9             In response to some of the things that Russell  
10    had raised, the mandate in the law is to the extent  
11    practicable while minimizing negative economic impacts.  
12    That's the guidance that we've been given in the law,  
13    that we don't necessarily have to set standards and an  
14    arbitrary 75 percent standard on reducing bi-catch.  
15    How does that fit into the other fisheries?

16            Mau raised some good points about the live  
17    bait, but take a look at that. Those things need to be  
18    analyzed across all these fisheries, not just the  
19    pelagic longline fishery but all the fisheries in one  
20    context.

21            And another thing to Russell is, you know,  
22    we're not dragging out feet. The pelagic longline

1 industry has stepped forward, we've come arm in arm  
2 with major components of the Mexican billfish fishery  
3 and we have got our sleeves up and we're working on  
4 this. We've got some complications that need to be  
5 worked out but there is no way, shape, or form, that,  
6 you know, we're indicating any dragging this out.

7 MR. DUNNIGAN: Russ. Russell.

8 MR. BEIDEMAN: As far as objectives, I agree  
9 with Bob's suggestion that, you know, we need to more  
10 clearly focus our discussions here and exactly where  
11 we're going, and I would also agree on the wording of  
12 the first objectives that he had put up and he might  
13 have to repeat if I can't find it. Reduce bi-catch  
14 with minimal impact on directed fishery.

15 I think that's the first objective that has  
16 brought these different groups together under a very  
17 substantive initiative to exactly do that. Reduce bi-  
18 catch with minimal impact on directed fishery.

19 One of the second incentives, at least behind  
20 the industry perspective incentive behind this, is to  
21 find a way to deal with small fish protecteds, highly  
22 migratory species protecteds, not just necessarily just

1 swordfish in the international arena.

2           And, again, I would reiterate to the AP that  
3 minimal size is not going to work in ICCAT. That is a  
4 measure that only comes against, you know, the  
5 fisheries being represented in this room. That's it.  
6 I doubt that we will ever have other countries force  
7 their fishermen, and even if they did they would only  
8 embellish the record, they would never actually discard  
9 as an incentive to avoid. We have to find a better  
10 way.

11           In trying to do that, what we've done is we've  
12 come forward with some substantial hurt. I mean, we're  
13 saying let's -- you know, let's not take, you know, the  
14 literal spot here on the east coast of Florida, let's  
15 take a good look at the science Jean Kramer put up, all  
16 the areas, eleven boxes with over 50 percent of the  
17 discards. The fishermen took that and added to it,  
18 didn't subtract from it, we added to it from our  
19 knowledge of where these hot spots are.

20           But we are saying that's inextricably tied to  
21 compensating those boats. I think that one of the  
22 strongest things I would like to see out of this AP is

1 a strong recommendation to National Marine Fisheries  
2 Service that they work together with these groups in  
3 this cooperative effort to, you know, proceed it  
4 forward as quickly as possible so that in November we  
5 have something at least on the table that we can get  
6 started with in the international forum.

7           We go to the international forum. We say,  
8 look, you know, you guys have indicated that you would  
9 like to try this route in the Gulf of Guinea. We think  
10 it's very important to protect small species, HMS  
11 species. We are trying it at home here.

12           We're taking it a step further by eliminating  
13 the effort the way Japan has taken steps in their  
14 buyout program. It's a very positive thing if we walk  
15 in there. This is an industry initiative, both  
16 recreational and commercial industry initiative,  
17 government cooperated, assisted, supported.

18           I mean, we can move that slow ICCAT forum to  
19 its fullest potential in the next three or four years  
20 perhaps with this concept. Otherwise, what I fear is  
21 that we're going to have a train wreck. This fishery  
22 will turn on itself and legally challenge any

1     substantial time/area closure that does not have  
2     compensation.

3             We have no choice. That is a corner that I  
4     hope that this group will not back us into, but it  
5     would give us no choice. And then we go over to the  
6     international forum. Here's the U.S. government  
7     decommercializing, cramming down the commercial  
8     industry's throat this concept and, you know, again  
9     whether this is right, wrong, or indifferent, there are  
10    people that import into this country and we will be  
11    asking them to assist us in that effort. You know, not  
12    in the delegation format but every day buying and  
13    selling fish on the phone.

14            At some point, you know, I would like Glen to  
15    be able to speak to these issues but I believe focusing  
16    more toward the objectives --

17            MR. DUNNIGAN: Yeah, let's continue to keep  
18    focused on the objectives. Bob Hayes, you started us  
19    down this road and I'm sure you have some ideas in mind  
20    as to what they ought to be.

21            MR. HAYES: Let me express a couple objectives  
22    and I want to make a couple of comments with respect to

1 something Nelson said. I think Nelson is expression of  
2 their legal position with respect to their angst, if  
3 you will, over some kind of regulatory adoption of  
4 closed areas is a honest and fair expression of where  
5 they are.

6 I might point out that there are some people  
7 sitting in this room, and I'm not speaking of myself  
8 but there are people in this room who have a firm  
9 belief that the agency has a statutory obligation to go  
10 ahead and proceed forward and address bi-catch and that  
11 these plans fail to do so. I would also suggest that  
12 the reason we are here today is because the agency has  
13 adopted that position.

14 So I hear what you're saying, Nelson, but I  
15 don't -- gosh, if we aren't all in a lawsuit here in a  
16 few weeks we're all going to be stunned. So I hear  
17 what you're saying.

18 Let me go back to what I think we were trying  
19 to get to, which I think is a far more important thing.  
20 I think the Magnuson Act very clearly says what Nelson  
21 characterizes of that. It says, okay, you got a bi-  
22 catch problem and if you've got a bi-catch problem we

1     want you to make efforts to reduce that bi-catch but we  
2     understand that when you do reduce bi-catch you may  
3     have an impact on folks that are in that fishery and  
4     the directed fishery and you ought to minimize those  
5     impacts to the extent you can, so long as you achieve  
6     your bi-catch objective. I mean, that's how I read it.  
7     Now, and I don't think that's an unfair reading of how  
8     the statute goes.

9             So then the question becomes, okay,  
10    essentially two things. One, with respect to linkage,  
11    I don't think the Magnuson Act says minimize the impact  
12    on the directed fishery and if you can't minimize it by  
13    the measures taken go see what you can do to buy them  
14    out. That's not my sense.

15            I mean, I don't think the statute says that  
16    and I don't think it intended that because, frankly, if  
17    it had intended that we'd have been a lot better off  
18    writing it in way to make it say that and we'd actually  
19    not be talking about doing things on the Hill because  
20    we have an administrative mechanism to go get something  
21    done. So, you know, my sense is it doesn't say that.

22            So the question then becomes, if what it does

1 say and if I've characterized I think some people's  
2 view of the statute correctly, including the agency's,  
3 the question is, all right, how does the agency proceed  
4 here to develop a system which minimizes bi-catch --  
5 excuse me, which reduces bi-catch but minimizes the  
6 impact on the agency? Now -- excuse me. On the  
7 fishermen.

8 MS. LENT: I like that. Thank you.

9 MR. HAYES: I was getting back to Gary's  
10 comments about beating up bureaucrats, you know.  
11 That's where I was. I was going to minimize the impact  
12 on these guys.

13 Let me -- and let me suggest that I think you  
14 can not make that evaluation without some percentage of  
15 reduction because you can't figure out what minimizing  
16 means in the context of just simply saying let's reduce  
17 bi-catch.

18 And I give you the obvious example. If you  
19 are going to put the emphasis on minimizing the impact  
20 and less emphasis on reducing the bi-catch, well the  
21 way to do it is not to reduce the bi-catch. You can't  
22 minimize an -- you can't minimize the impact any more

1     than that. I don't think that's a sustainable position  
2     and, frankly, I don't think that's the position that  
3     you and I have been talking about.

4             So what I would suggest is that as a way of  
5     creating a policy debate, if you will, which is I think  
6     in the context of this group what we ought to be  
7     talking about is, first, what percentage of reduction  
8     makes sense. You know, is it 98 percent reduction of  
9     bi-catch? There are groups in this room that would say  
10    it's 100 percent reduction. Gee, do I think that's  
11    very practical? No, and I think everybody knows I  
12    don't think that's very practical.

13            But it might be 25 percent, it might be 50  
14    percent. It might be -- I think the plan says 75  
15    percent. I don't know. I think the debate we ought to  
16    be having so that we can frame the measures and then  
17    look at what I think you want to look at, Nelson, which  
18    is, okay, how do we mitigate the impact of these  
19    measures.

20            If we say, okay, what's the percentage of  
21    reduction that makes some sense? And I mean in the  
22    context of domestically and internationally,

1 particularly with respect to billfish because we're  
2 going to move to another issue in the year 2000 about  
3 billfish so let's start thinking about where those  
4 things come together.

5           So, you know, my sense is the policy debate we  
6 ought to be having first is, in that context of what  
7 the statute says, what's the percentage of reduction  
8 that makes sense to solve the problem domestically and  
9 then in that context let's look at minimizing that  
10 impact. I don't think 100 percent reduction of bi-  
11 catch -- I mean, there's a lot of people in this room  
12 would love to have it. I don't think that's very  
13 practical. I don't think it's likely and I don't think  
14 it's politically sustainable.

15           By the same token, I don't think 10 percent  
16 reduction in bi-catch is politically sustainable or  
17 acceptable. It's somewhere in between and I think,  
18 frankly, there is interests in this room that can have  
19 a policy debate around what that is and what are the  
20 criteria which we determine that. That's where I'd  
21 suggest we go.

22           MR. DUNNIGAN: Well, first of all, our list is

1 Steve, Robert, Bob Zales, Mau, Pete, David, and Alan  
2 Weiss. It will from now on -- listen carefully. It  
3 will be out of order to use the words, "The debate we  
4 ought to be having is." Don't tell us what we ought to  
5 be talking about. Start talking about it.

6 Thank you. Steve Loga.

7 MR. LOGA: Okay, I'll get to the point of it.  
8 The objective in the time/area closure for the Gulf of  
9 Mexico is to reduce bi-catch of billfish. One of my  
10 concerns with this time/area closure is that we're not  
11 necessarily reducing bi-catch; what we're doing is  
12 going to divert 80 boats towards the eastern Gulf of  
13 Mexico which we may still have the same problem.

14 And I think that's why -- that's one of the  
15 reasons why the live bait is such a key issue, Russ, is  
16 that we need to look at that. We don't want to just  
17 divert 80 boats to the other side and have the same  
18 problem and all we're doing is whitewashing the  
19 problem.

20 MR. DUNNIGAN: Robert Fitzpatrick.

21 MR. FITZPATRICK: I think John spoke to this.  
22 And I don't have a dog in this fight. I know that's

1     been used but there is a dog in it that tried to bit me  
2     for the last decade. And I see some people, maybe 47  
3     boat owners and their families. Are they all going to  
4     get bitten on September 1st?

5                 I mean, there is a lot of issues and I'm not  
6     really part of them. But it seems like there's a train  
7     heading for September 1st. Everybody is saying you  
8     need this, you need that. I don't think it's going to  
9     be done by September 1st. Are you going to put them  
10    out of business then? Can somebody from the agency  
11    tell me, is September 1st some sort of drop dead date  
12    where there is going to be a time/area closure and  
13    those boats aren't going fishing regardless of a lack  
14    of a buyback program, regardless -- I mean, are the  
15    swordfish going to fall off the face of the earth on  
16    September 1st?

17                MR. DUNNIGAN: Yeah, that isn't what Rebecca  
18    said to us yesterday. She said yesterday that they  
19    have to address the question of bi-catch, they are  
20    looking now at the possibility of time/area closures,  
21    and their objective is to get that done by the 1st of  
22    September. But that it's a planning --

1 MR. LOGA: It's not a hard date?

2 MR. DUNNIGAN: That's right. That's what  
3 they're trying to do. That's what their commitment is  
4 to do. Okay?

5 MR. BEIDEMAN: A commitment to implement by --

6 MR. LOGA: I'm being told it is a commitment  
7 to implement by September 1st.

8 MR. DUNNIGAN: That's where they are.

9 MR. BEIDEMAN: -- in the Federal Register.

10 MR. LOGA: Well, that sounds like it's a drop  
11 dead date.

12 MR. BEIDEMAN: Where did it come from? Is it  
13 arbitrary or is it under mandate?

14 MR. DUNNIGAN: Do you want to comment to that,  
15 Rebecca?

16 MS. LENT: We tried to estimate the amount of  
17 time it would take to assemble the data, do the  
18 analysis, hold an AP meeting or two, have public  
19 hearings, proposed rule, et cetera.

20 MR. DUNNIGAN: Right. It's not laid on them  
21 under the law. Bob Zales.

22 MR. ZALES: Bob Zales. This is a problem of

1 bi-catch and as a recreational fishermen myself and  
2 several people that I know, we're really getting  
3 frustrated and tired of our fisheries being directly  
4 affected as to whether we fish or don't fish or how we  
5 fish or what not in relation to bi-catch of other  
6 fisheries.

7           And I'm going to broach a subject here that  
8 people may agree with me. Some people may not. But  
9 there is another way to stop or eliminate this bi-  
10 catch. There's a bi-catch quota. These people, they  
11 can bring their fish to the dock and once they've met  
12 their quota they stop fishing.

13           I intend to talk about this at the Gulf level  
14 on red snapper and so I'm going to throw that out there  
15 for the debate to see what people think about bi-catch  
16 quotas. Like I said, some people may agree with it.  
17 Everybody may hate it. Some may like it. But it's  
18 another alternative that I think should be looked at.

19           MR. DUNNIGAN: Rebecca.

20           MS. LENT: Just a clarification. Do you mean  
21 billfish as well?

22           MR. ZALES: Whatever their bi-catch --

1     whatever bi-catch you're trying to eliminate, I would  
2     assume and that's why I say some people may not like  
3     this and some people may. It's going to be  
4     reprehensible, I'm sure, to see a longliner bring a  
5     dead billfish to the dock, but if they can only bring  
6     two a year to the dock and they quit fishing for the  
7     rest of the year, some people may like that idea. I  
8     don't know.

9             But it's my fisheries by using the definition  
10    landings instead of mortality, I've already in my  
11    assumption of what I see, there was a tournament last  
12    weekend or two weekends ago in Mobile, Alabama. There  
13    were 80 some-odd boats in that tournament.

14            There was not the first blue marlin, billfish,  
15    period, brought to the dock. Nine fish were tagged.  
16    There were several fish hooked and let go, but there  
17    was not a legal fish. Their minimum size is 99 inches.  
18    There was not a fish brought to the dock in two days of  
19    fishing. Excellent weekend. The weather was  
20    absolutely perfect.

21            And my fishery is being affected now by bi-  
22    catch. It's been affected in just about every

1 recreational fishery I know of. Bi-catch is directing  
2 what I can do, and in most fisheries that I'm playing  
3 in I'm an insignificant player in the overall scheme of  
4 the rebuilding of these fisheries and I'm tired of that  
5 happening to me. Other people around me are tired of  
6 that happening to them.

7           So this is a radical way but it could be a way  
8 that might work. You've set up a quota. They catch it  
9 in a month, they don't fish for eleven months. It may  
10 end the time/area closures. It may change the buyout  
11 fisher, but it will do something. If nothing else,  
12 create controversy.

13           MR. DUNNIGAN: The issue is what should the  
14 objectives be considered as for the Service as it  
15 continues to talk about time/area closures. The list  
16 is Mau Claverie, Pete Jensen. We'll start there. I've  
17 got about eight more on here, too.

18           MR. CLAVERIE: Well, the two of us can handle  
19 it if you want for the rest of the day.

20           MR. DUNNIGAN: Mr. Claverie.

21           MR. CLAVERIE: This thing is on. Is it  
22 working? I've got several things. First is just to

1     respond to Bob. His suggestion may be appropriate in  
2     other fisheries but because of the provisions of this -  
3     - of the billfish plan, the conservation management  
4     provisions relate to no possession and sale in the  
5     United States that the -- allowing any to be brought to  
6     the dock would be a serious problem for this fishery.

7             But Nelson proposed some language. Dr. Graves  
8     who has some experience in how to get things done and  
9     made a suggestion that we put those kind of things on a  
10    piece of paper that we can all see on the wall or  
11    something.

12            Can we do that? Because I want to discuss  
13    what the criteria would be, which is what Bob Hayes  
14    suggests we do, but just to put it in words and have it  
15    evaporate in the air I don't think is going to get us  
16    to where we need to be if that's really our objective.

17            So is there some administrative way we can  
18    actually put words on a piece of something we can all  
19    see and say at the end of the day this -- hand it to  
20    NMFS and say this is what we came up with?

21            MR. DUNNIGAN: Technologically we can do that  
22    but it will take us through the lunch period to get it

1 set up.

2 A PARTICIPANT: (Inaudible.)

3 MR. CLAVERIE: Well, why don't you do that?

4 MR. DUNNIGAN: Well, I don't want to break for  
5 lunch when I promised about eight more people that they  
6 can talk.

7 MR. CLAVERIE: Well, I want to go over the  
8 criteria but if it doesn't get written down what's  
9 going to happen to it?

10 MR. DUNNIGAN: I understand.

11 MR. CLAVERIE: Okay, all right.

12 MR. DUNNIGAN: (Inaudible.)

13 MR. CLAVERIE: Nelson suggested and I wrote it  
14 down in basic -- that the criteria be to reduce bi-  
15 catch with minimal impact on the directed fisheries.  
16 And I have some suggested changes or additions to that  
17 which cover a broader spectrum.

18 The first one is it should be to reduce bi-  
19 catch and bi-catch mortality because that's the way the  
20 Act sets it up, number one and, number two, we've  
21 already talked about the use of live bait or dead bait  
22 may have to do with bi-catch mortality more than it

1 does with bi-catch in this particular fishery because  
2 the definition of bi-catch in this fishery is kind of  
3 not mortality, it is they're not allowed to bring any  
4 of them to the dock anyhow. So I would like to add  
5 that to the -- just plain bi-catch to "and mortality."

6 Also, as I have mentioned yesterday and I'll  
7 have to state again today, I want to add as one of the  
8 criteria to attain objective eight of the billfish plan  
9 amendment by addressing problem one of the plan.

10 In other words, introduce the idea of reducing  
11 the impact of the longline bi-catch fishery fishing in  
12 the Gulf which apparently is a yellowfin tuna fishery  
13 which, thank goodness, is represented here, on the  
14 success rate in the recreational fishery which is what  
15 we're supposed to be enhancing according to the  
16 billfish plan. So I'd like to add that.

17 And then where Nelson said minimal impact on  
18 the directed fishery, I think based on what Hayes said  
19 that there has to be another catch word in there which  
20 is practical. How do we say it? Practicable or  
21 practical? I forget. Anyhow, we even had to define  
22 that in Louisiana in our fishery.

1           But those were my comments relative to the  
2       criteria itself and not getting into percentages or  
3       anything like that but the criteria itself. So I would  
4       like to just add those. I've got them written down if  
5       you ever get a piece of paper to put them on.

6           MR. DUNNIGAN: Real quick.

7           MR. HAYES: Just to speak to Mau's point, I  
8       think Mau has got a good point here. You know,  
9       percentages tend to be, frankly, arbitrary and what I  
10      was talking about was coming up with a debate between  
11      how you determine those two consequences. The  
12      consequence on one side of putting limitations on the  
13      directed fishery and the benefit to the bi-catch and  
14      how you -- you know, how you sort of make that equation  
15      and how you make that sort of deliberation.

16           So the characterization of it, actually, that  
17      Mau just gave I thought was a pretty accurate thing of  
18      where I was trying to get to.

19           MR. CLAVERIE: Jack, I've got more.

20           MR. DUNNIGAN: Real quick.

21           MR. CLAVERIE: From a conceptual point of view  
22      it would seem to me that if we, NMFS, comes up with the

1 time/area closure scenario, if the only way to minimize  
2 or avoid social economic impacts on communities or  
3 fisheries, whatever it is, is a buyout situation, then  
4 the buyout part of it obviously has to be handled by  
5 the legislative branch.

6 But for the legislative branch to do both I'm  
7 a little hesitant about because once the conservation  
8 and management measures are set in stone instead of  
9 just concrete it gets pretty hard to change. And,  
10 frankly, anything less than a total closure to the Gulf  
11 to longlining during the summer months is experimental.

12 The only data we have, at least for the  
13 (inaudible) to the recreational fishery part of it is  
14 that. And that is not appropriate for legislation.  
15 That is appropriate for the agency to work with and  
16 track and follow and see if it's doing what it's  
17 supposed to do.

18 But I think we have a very serious problem  
19 with the social economic impact end of it. Obviously,  
20 in order to rebuild billfish Atlantic-wide, the  
21 longlining bi-catch issue has to be seriously  
22 addressed. And I think the last SCRS told us was a 50

1     percent reduction in mortality off the longlining  
2     operations on the billfish would be a rebuilding  
3     program.

4             We've got less than 25 now and so we're going  
5     to have to do something, and the idea is that as long  
6     as you're going to have to have to cut them back that  
7     particular fishery operation, cut them back somewhere,  
8     why not also cut them back in mind with enhancing the  
9     other fishery if possible. And that's the idea of  
10    addressing the conflict issue and enhancing the  
11    recreational fishery.

12            MR. DUNNIGAN: Here's where our list is right  
13    now. Pete Jensen, David Wilmot, Alan Weiss, Nelson  
14    Beideman, Jim Donofrio, Charlie Moore, Russ Nelson.  
15    And we've got a couple of minutes until lunchtime. I'm  
16    not going to put anybody else on the list for before  
17    lunch and let's see if we can make our comments short  
18    and to the point so that we can get our break underway.

19            Pete Jensen.

20            MR. JENSEN: I hope I won't be repeating or  
21    going over old ground, and I'll state some of what is  
22    obvious to me. First of all, I need a benchmark and I

1 think everybody needs a benchmark, whether it's 5  
2 percent or 10 percent or 50 percent or whatever it is,  
3 whether it's tied to some specific reduction or some  
4 criteria that accelerates the recovery.

5           If I look at the information I see in the FMP  
6 that NMFS has stated a near-term and long-term goal of  
7 reduction, and I'm comfortable with that. There are  
8 near-term and long-term. Secondly, the statement in  
9 here is that pelagic longline fishermen have been  
10 unable to reduce discards sufficiently. And if you  
11 look at the table that leads to that conclusion, an 18  
12 percent reduction in longline discards from 1995 to  
13 1997 is termed insufficient or inadequate.

14           If I look at the information that was passed  
15 out yesterday, I see some projections that with massive  
16 closures of large areas you might achieve 15 to 20  
17 percent reduction in swordfish discarded, I think it  
18 is, with other consequences.

19           And so I think we all know that fisheries  
20 management many times is trial and error, but to go  
21 back to my original statement I think we need a  
22 specific benchmark that is measurable that we can all

1     see where we're going.

2                   But, secondly, so that people outside of this  
3     forum can look at it in a specific way and make some  
4     judgment. Even though NMFS has made the agenda today  
5     time/area closures, it's obvious that there are a lot  
6     of other things that could reduce bi-catch and so  
7     perhaps for the short term, or near term as they call  
8     it, time/area closure might be a starting point. But I  
9     agree wholeheartedly that somewhere along the line,  
10    quickly if September 1 is an absolute date and can't be  
11    modified, that we need a workshop on bi-catch reduction  
12    so that you can begin choosing some goal over the long  
13    term to get where everybody thinks we need to go.

14                  So I would argue that we need to turn this  
15    discussion toward at least some range of specific  
16    targets that people think are practical, achievable,  
17    near term, long term, and then we have a benchmark and  
18    something that we can measure one against the other.  
19    And I would go back to one of the roles of this AP, and  
20    that is to go back and discuss these problems and  
21    options with councils, with people that are affected,  
22    with state governments.

1           And I'm very much attuned to the fact that we  
2   have been thrown this stuff and are expected to make  
3   some judgments today without having the opportunity to  
4   go back and talk to all the people that we ought to be  
5   talking to.

6           MR. DUNNIGAN:   David Wilmot.

7           MR. WILMOT:   Thank you.   I'd like to address  
8   three points:   one, the timing and the September 1st  
9   issue; two, the relationship of buyouts to the  
10   discussion on closed areas; and then, three, I have a  
11   number of points to get right at what Pete has just  
12   raised with specific goals that I would like to see in  
13   a bi-catch reduction plan, issues that I have raised  
14   for years around these tables.

15           First, the laws in my opinion was quite clear  
16   in the FMP should have included measures to reduce bi-  
17   catch.   They did not.   A discussion of how much longer  
18   they should delay is I think missing the point to some  
19   extent.   They should have been there.   I suspect NMFS  
20   feels they have a good argument for why they weren't  
21   there.   I would not want to see any delays beyond  
22   September 1st.

1           I personally think it was unacceptable not to  
2   have these measures in place at the time considering  
3   that some of us raised the point that these were  
4   invalid area closures that you've been talking about  
5   for a very long time and the rationale you gave for why  
6   they were invalid was indeed the reasons that we gave.

7           The point is NMFS for a long time could have  
8   known they were going down a one-way street and needed  
9   to make some corrections. Now we're having that  
10  discussion and I would hate to see this delayed at all.  
11  Quicker than September 1st would be desirable.

12           Implementation of a time/area closure can not  
13  be linked in any form or fashion to a buyout. There is  
14  absolutely no justification for doing that. I hope I'm  
15  interpreting what the Service is doing correctly and  
16  that they also are not making that linkage.

17           If, after a time/area closure is put in place,  
18  a discussion wants to be -- if we want to have a  
19  discussion about economic relief, that is appropriate.  
20  That is completely appropriate and we would look  
21  forward to having it, but it absolutely can not be used  
22  to delay the actions that NMFS must take under the law.

1                   Goals of a bi-catch reduction plan. Time/area  
2   closures should only be a part of it. We did have a  
3   lot of discussions last year, over the past couple of  
4   years, about other potential measures that could be  
5   used whether it's bait or changes in fishing practices,  
6   fishing gears, et cetera. That should remain part of  
7   the discussion.

8                   However, it was pretty clear that the only  
9   thing that we could do quickly that we could have  
10   confidence would reduce bi-catch was the time/area  
11   closures. That's what we should move on now. These  
12   discussions should continue. This is going to be an  
13   experimental process, a work in progress. It should be  
14   evolving constantly. I hope that we're all part of  
15   that as we move forward. Now we have the opportunity  
16   to put time/area closures. That's the piece we can put  
17   in place.

18                   What should they focus on? Avoidance of bi-  
19   catch, first and foremost. Where it can not be avoided  
20   then we should deal with reducing the mortality of what  
21   is encountered. That would a top goal, the hard  
22   target.

1           I agree completely without a hard target I  
2   have argued it will be impossible for us to, one, know  
3   where we want to go and, two, to actually get there.  
4   We tossed out a number of 75 percent before. When one  
5   looks at these figures we recognize that is a very  
6   idealistic number; 50 percent, however, with certain  
7   species is not unrealistic. No one said that this was  
8   going to be painless. If we're going to get rebuilding  
9   and we're going to speed up rebuilding, this is an  
10  absolute essential part of it.

11           So we're going to stick pretty hard. We'd  
12  like to see -- I'd like to see at least 50 percent in  
13  all of the species. It also has to be a multi-species  
14  approach. We can't look at individual species and say,  
15  okay, a 25 percent reduction on swordfish is good  
16  enough when the impacts on other species may be in the  
17  negative direction. We saw that yesterday with many of  
18  the figures. Large coastal sharks and pelagic sharks  
19  didn't fare very well in a lot of the closed areas that  
20  were presented by NMFS. In some of the other proposals  
21  they may do better.

22           The key here is to look at all the different

1 species so, therefore, the goal is going to have to be  
2 a multi-species approach.

3 The final thing -- I think I'll stop right  
4 there. Those are my key points.

5 MR. DUNNIGAN: Alan Weiss.

6 MR. WEISS: Thank you. First of all with  
7 regard to the September 1st deadline, I think that when  
8 the Congress created the fisheries management system in  
9 its present form, not just created it but amended it  
10 over the years, the Congress didn't contemplate that we  
11 hurt our constituents and implement inadequate or  
12 improper management measures quickly.

13 And I think the intention was that we do our  
14 best to protect our constituents and also develop  
15 measures that will be most effective.

16 In light of the discussion I've heard around  
17 the table today and the concerns for a more thorough  
18 presentation and analysis of the information that will  
19 need to go into this decision, we would be better off  
20 having a good decision on this in October or December,  
21 not in three years but in a few more months, rather  
22 than have a bad decision no later than September 1st.

1           With regard to the goals of the plan or of  
2   this effort, I think we find them in the national  
3   standards. And I know as a council member when I have  
4   any doubts or am at a loss to what direction to go on  
5   something I have generally found that the answers to  
6   all of my quotas are usually in the law, and I dig it  
7   out and review it very frequently.

8           So I think what we want to do here is to, to  
9   the extent practicable, minimize bi-catch and, to the  
10   extent it can not be avoided, minimize the mortality of  
11   such bi-catch, and minimize the adverse economic  
12   impacts on fishing communities. And these things,  
13   especially in the context that we're speaking in here  
14   today, can be at odds with one another. There is some  
15   amount of trade-off between the two.

16           My understanding of what I hear from people  
17   who are talking about a buyout in association with area  
18   closures is that you can reduce bi-catch to the extent  
19   practicable with no buyout but the extent practicable  
20   under those circumstances is limited. You can get a  
21   more substantial reduction in bi-catch and still be  
22   practicable with a buyout that at the same time

1 addresses the concerns of the economic impact in  
2 fishing communities.

3 And I would also like to re-emphasize a point  
4 that Steve Loga made earlier and which was really the  
5 premise for the reason that the Mid-Atlantic Council  
6 commented negatively about the original proposed area  
7 closure in the FMP, and that is that it was really  
8 ineffective.

9 When we saw the presentation by Jean Kramer,  
10 it indicated that there could be a significant  
11 reduction in bi-catch if the fishing ceased in that  
12 closed area and the vessels that were fishing that area  
13 just evaporated. But when she went further and made  
14 the assumption that the vessels would not evaporate but  
15 would redeploy to other areas, the benefits rapidly  
16 began to recede.

17 And whether the closed area is this or that or  
18 the other proposal, it will maximize the effectiveness  
19 of that effort if the effort from those areas won't be  
20 redirected but disappear altogether. And the only  
21 means to obtain that conclusion is through a buyout,  
22 and the various perspectives that I've outlined here

1 more or less bring me to the same conclusion.

2 MR. DUNNIGAN: Nelson.

3 MR. BEIDEMAN: Regrettably, I feel like my  
4 fishery and myself have been directly slapped in the  
5 face for having stepped forward and tried to act  
6 responsible in reducing what we recognize as real  
7 problems. I would remind David there are people as  
8 well as fish, and I would thank God that we've got  
9 legal laws in this country that recognize there are  
10 people as well as resources involved in these issues.

11 A few things. What Bob and Pete raised, you  
12 know, I would like to say yes, I agree that, you know,  
13 we need some kind of benchmarks. But I've been two or  
14 three years now requesting of the National Marine  
15 Fisheries Service, requesting of their scientists in  
16 every public forum that I possibly can that, hey, we  
17 need some standards here. We need some consistency  
18 here.

19 We need perhaps the Congress and the powers  
20 that be to debate on some, if you like, bi-catch  
21 reduction goals, et cetera, down the road. But to  
22 arbitrarily set it on one fishery we're moving right

1 back into the witch hunt that this process has been  
2 basically been in the past year and a half. And I  
3 would hope that we don't go back into that, you know.

4 If the rest of the HMS fisheries can handle a  
5 75 percent reduction in their bi-catch, then my fishery  
6 will. If you're going to apply it to this fishery and  
7 not apply it to the rest of the fisheries, then you've  
8 got a problem. Now grow up. Grow up. David.

9 MR. DUNNIGAN: Nelson (inaudible.)

10 MR. BEIDEMAN: Going on. Buyback is  
11 inextricably linked to any substantial closure. How  
12 can you possibly, you know, put an area of fishermen  
13 out of business with the laws that we have without  
14 compensation. I can't conceive of it.

15 The September deadline is arbitrary. What's  
16 been whispered in my ears may be a possible, you know,  
17 solution. Apparently, you know, John Graves may have a  
18 suggestion as far as getting a technical team together  
19 with the swordfish species working group team before,  
20 you know, the fall meeting round starts so that perhaps  
21 we can take a look at, you know, what kind of analysis  
22 and what not would put one set of data onto the table.

1                   And as far as objectives, what's been raised I  
2    think is very good but I think in addition we still  
3    need the very important objective of how to promote  
4    what we're doing here in the international forum  
5    because every step of the way of what we do here I  
6    think we should look in that context.

7                   And, again, that is one of the things that the  
8    groups that have come together have been looking at.  
9    We haven't only been looking at, hey, we got a real  
10   problem here and we can come up with some real  
11   solutions to substantially reduce bi-catch without  
12   decimating, you know, the U.S. fishery.

13                  We've also looked at, you know, we've got a  
14   large international problem, a lot more than the 5  
15   percent that we are, that has to be resolved, and I  
16   think every step of the way we need to look at that end  
17   run, that horizon, and make sure that we're building  
18   programs that can be carried through in the  
19   international forum.

20                  Thank you.

21                  MR. DUNNIGAN:   Jim Donofrio.

22                  MR. DONOFRIO:   Thanks, Jack.   Jim Donofrio,

1     RFA. A couple things. I agree, Nelson, that if  
2     anything there is going to be any reduction of your  
3     fleet there should be a compensation package.

4             The thing that I don't like about this  
5     proposal right in front of this today, it was kind of  
6     shoved down our throats very rapidly here. I feel the  
7     entire recreational industry was not involved in these  
8     decisions. We were kind of left out of it in much of  
9     it so we need to look at this. There needs to be time  
10    to really look at this.

11            But I do agree you need to be compensated. If  
12    your boats are leaving, you need to be compensated but  
13    I don't think we're going to make those decisions  
14    today.

15            But I have some questions. Will the -- if  
16    there is a reduction, a percentage, say if it's just  
17    whatever the boats, the amount of boats are, whatever  
18    that percentage is, will that be a proportionate  
19    reduction in swordfish quota then, or will your vessels  
20    just be able to catch them somewhere else, which would  
21    mean more bi-catch, more interaction with other  
22    species? That's one of my questions.

1           The other is will the permit holders be  
2   allowed to enter any other commercial HMS species such  
3   as, hey, I just got compensated a couple of hundred  
4   thousand dollars, I can go buy a little duffy now and  
5   go general category fishing up there. I really got a  
6   nice cushion of money so it doesn't matter if I'm a  
7   highliner or not but I can go compete with the guys  
8   like Joey Janovitz that really do it full time for a  
9   living now.

10           So, I mean, is there going to be redirected  
11   effort into those other fisheries? And if the harpoon  
12   fishery gets restored, am I going to go compete with  
13   the other harpooners in those fisheries?

14           My feeling would be that once you're bought  
15   out you're out of HMS forever, go do something else.  
16   Go run a party boat or a charter boat or take whale-  
17   watching but, you know, you're out of HMS. And that  
18   would be my feeling.

19           The other thing is another question on one of  
20   your points here, Nelson. Vessels of compensated  
21   permit holders may not reflag foreign, fish with  
22   pelagic longline gear in Atlantic or enter closed U.S.

1 fisheries.

2 But it doesn't say anything about the owner of  
3 that vessel getting another vessel and doing it. It  
4 talks about the vessel that you're buying out. I think  
5 that point needs to be cleared out.

6 MR. DUNNIGAN: Nelson, do you have some quick  
7 answers to Jim's questions, please?

8 MR. BEIDEMAN: As far as the reduction, we  
9 would not be breaking the law by unilaterally, you  
10 know, reducing the quota given to the U.S. by ICCAT.

11 But I would say it a little further. We would  
12 not want to take that step also because what you would  
13 be doing is taking away from responsible fishermen that  
14 have complied with the international program and giving  
15 that quota to what basically is irresponsible countries  
16 that have not complied with the programs. I think that  
17 would be a step backwards and we do expect that there  
18 is going to be a quota reduction in the upcoming ICCAT  
19 swordfish recovery program.

20 (End of Tape 5, Side A.)

21 MR. BEIDEMAN: -- way this buyout will help us  
22 to prepare for that.

1           On the permit in entering other fisheries, I  
2 think Glen should answer that question.

3           MR. DUNNIGAN: Glen Delaney.

4           MR. DELANEY: I'm answering this question as  
5 Glen Delaney, if that's all right. I'm not sure which  
6 hat you were attacking so I won't be either.

7           I think the issue of displacement of these  
8 particular fishing vessels into other fisheries is one  
9 that needs continued work. Our initial attempts in  
10 some of the early drafts, certainly a work in progress,  
11 the spirit and intent is to prevent, first of all,  
12 these vessels from fishing under any pelagic longline  
13 permit. And so that might answer some questions.

14           It is our intent not to have these vessels be  
15 able to, for the first time, enter other fisheries  
16 which are fully capitalized and perhaps under limited  
17 access or, you know, closed in some other legal fashion  
18 that I might not be familiar with, and we don't want  
19 them to go overseas and lose complete control over them  
20 and flag out in the Caribbean dial-a-nation of their  
21 choice and become pirates.

22           The point was to not cause or exacerbate any

1     economic stress in another fishery. At the same time,  
2     if these vessels already possess and are actively  
3     participants in a permitted fishery that, you know,  
4     NMFS has issued them a permit to fish and they do fish  
5     -- and I don't know what would be a good example, Gary,  
6     so I'm looking at you -- snapper group or -- I don't  
7     want to say the wrong fishery because everybody will --  
8     not that, you know. But some other fishery that is  
9     perfectly valid and they make a portion of their  
10    livelihood from.

11                 I don't know if that's what the point is. The  
12    point is about minimizing bi-catch of highly migratory  
13    species, not in diminishing the economic capacity in  
14    some other fishery. I mean, if we were to do that and  
15    consider that and that seems to add another issue to a  
16    buyback is what are the benefits to that other fishery  
17    by removing this vessels as well. It wouldn't be just  
18    the economic loss to the highly migratory species that  
19    they participate in.

20                 Let me just finish up on one last point  
21    because I think it's valid because I know other  
22    questions will come up on it because it did yesterday.

1     Should we buy a permit or should we buy a boat? And  
2     that's a valid debate.

3             We buy a fiberglass 42-foot, whoever makes  
4     them, not Viking, fishing boat, longline boat. What do  
5     you do with it? What is the government going to do  
6     with 47 40- or 50- or 60-foot fiberglass boats? You  
7     can't burn them, you can't throw them in the garbage,  
8     you can't scrap them for steel, you can't sink them for  
9     artificial reefs. It's just a practical consideration.  
10    What the heck are we going to do with all these boats.  
11    Whatever.

12            So that was one consideration. It was also a  
13    consideration if this guy wants to become a charter  
14    boat fishermen, why not? That's the direction things  
15    are going. Let the guy earn a living on the sea. You  
16    know, does he have to go to work in McDonald's or can  
17    he still be a fishermen? So those are the kind of  
18    things we thought about. It's a valid debate and we're  
19    certainly open to whatever direction makes sense.

20            MR. DONOFRIO: Glen, thanks. The one question  
21    that I'm real concerned about here is the one about  
22    there's no quota reduction.

1                   And, Nelson, I know your point about not  
2     giving up something but you're going to encounter more  
3     and more bi-catch because you're going to try to catch  
4     that quota of swordfish so that means there is going to  
5     be more interaction in the Mid-Atlantic bite or  
6     wherever, okay, and there is going to be a lot more  
7     white marlin killed and blue marlin, but I guess some  
8     of the people just didn't care about the Mid-Atlantic  
9     bite when they put this together. You know, what about  
10    that bite? That's real important.

11                  And I don't care what the data shows. I can  
12    tell you anecdotally because you know I was out there  
13    with your boats and we know what goes on out there.  
14    The data doesn't mean anything to me.

15                  MR. DUNNIGAN: Talk to Jim after we break  
16    here, if you could, and answer the question because  
17    we've got to get to other folks and take our break.

18                  Charlie Moore, then Russ Nelson.

19                  MR. MOORE: Just real quick. Many of my  
20    comments have been made, particularly by Pete, Dave,  
21    and Nelson. In terms of -- it seems to me it's  
22    absolutely essential to set a benchmark or a percentage

1 reduction in bi-catch.

2           Until you do that you've sort of got the cart  
3 before the horse. You're looking at various closures  
4 and so forth and seeing what that does and is that  
5 significant or is that not significant. It seems like  
6 the discussion needs to be basically what does it take.  
7 What is a reasonable -- what can everyone decide on on  
8 a fishery-by-fishery basis, not a uniform. I can't see  
9 how that would work.

10           But on a fishery-by-fishery percentage, what  
11 is the percentage of reduction that we're after?  
12 That's my comment.

13           MR. DUNNIGAN: Russell Nelson.

14           MR. NELSON: Let's start at the top. Federal  
15 law mandates that we prevent overfishing. The ICCAT  
16 charter says we prevent overfishing. Both domestically  
17 and internationally, we agree that that overfishing  
18 threshold essentially is the biomass in which maximum  
19 sustainable yield is produced. We don't have to argue  
20 about those things. Those are set.

21           I think Nelson is absolutely right. We stand  
22 the best job of doing -- managing everything if we can

1 go forward with our domestic commercial and  
2 recreational industry having agreed on a program to  
3 solve our problems, that we can then bring and advance  
4 internationally.

5           So I tend to support -- I'm not real fond of  
6 buyouts but I've got no aversion to it. And if a  
7 program that you all put together is going to get a  
8 significant -- do significant problem-solving, I'm  
9 prepared within Florida and go and solicit what help I  
10 can get from our delegation to support something like  
11 that. I'm not adverse to it whatsoever.

12           We have the goal then. Now, domestically most  
13 of the mortality is bi-catch. Internationally, most of  
14 the mortality on billfish is longlines, a portion of it  
15 is recreational fisheries in other nations that we  
16 really have no tabs on. But what we have domestically  
17 is longline and most of the mortality is bi-catch.

18           So it would seem very simple what we do here,  
19 and I'm speaking right now of billfish. I recognize  
20 the broader concerns but I'm trying to narrow things  
21 down to something I can grapple with logically. What  
22 we want to do is prevent overfishing.

1           If we can reduce our domestic bi-catch  
2   mortality by the percentage which, if applied stock-  
3   wide in the Atlantic would put that stock, those  
4   stocks, on a recovery track towards BMSY, I think  
5   that's a legitimate goal. And having done that  
6   domestically, it would be legitimate if we could go  
7   together then to ICCAT and say we've come up with a way  
8   to do it domestically, now we've got to look  
9   internationally how do we get a percent reduction in  
10  mortality. And internationally some of it will be bi-  
11  catch and some of it will be directed fishery, but how  
12  do we get a reduction of mortality to get us on the  
13  same track that we've already taken domestically?

14           And I know there has been numbers thrown out  
15  that could be 50 percent, that could be 40 percent.  
16  We're going to see another stock assessment come up and  
17  that number could change, but I think our goal should  
18  be a reduction by the percentage necessary, if applied  
19  stock-wide, would get that stock on a trajectory  
20  towards BMSY.

21           And I think we ought not to get frenetic about  
22  goals. I think we should convene a working group, a

1     technical group, to look at what we can do right now  
2     and come back and winnow down the choices to bring to  
3     this advisory panel.

4             But you've got to recognize that, yeah, those  
5     goals have to be met and we have to look at what is  
6     practicable, and it's very possible that we might find  
7     that given the tools at hand the first cut we can go  
8     this far and then we go back and try to refine tools,  
9     and the next cut we can go this far. I mean, it's  
10    always a step-wise progression.

11            That's all I have to offer, and I'm hungry.

12            MR. DUNNIGAN: Yes, thank you. We are  
13     scheduled to go until 4 o'clock. Based on the way the  
14     discussion is going I suspect we're going to use all of  
15     that time, so I suggest that we go ahead and take a  
16     lunch break. Take 45 minutes though, 45 minutes and be  
17     ready to come back.

18            And we'll set up an electronic thing here so  
19     we can do some writing if that's what you want to do.  
20     Thank you.

21            (Luncheon recess.)

22            MR. McBRIDE: -- in, what is it, SOW-3 or

1     whatever, SWO-3. And in that you must have had a  
2     mortality percentage or rate of some kind affiliated  
3     with that particular preferred option.

4             Is that correct? Well, can we have it? I  
5     mean, do you want to defend it? Should we vote on it  
6     or should we get out of here and just (inaudible) and  
7     keep going (inaudible).

8             MR. DUNNIGAN: Rebecca.

9             MS. LENT: Well, again, with all the caveats  
10    that I mentioned yesterday, Joe, these are preliminary  
11    analyses.

12            MR. McBRIDE: Yeah.

13            MS. LENT: And if we lay just this set in  
14    front of us for these four options for swordfish, it  
15    looks like SWO-3 had a good mix of balancing reduction  
16    in swordfish discards versus increases in other  
17    critters' discards and the impact on directed catch.  
18    And you could do anywhere between 15 and 20 percent  
19    depending on how far you wanted to go, so we'd like to  
20    hear from you.

21            MR. McBRIDE: Well, is that satisfactory with  
22    the agency? Is 15 or 20 percent sufficient for an

1     initial plan is really what I'm asking so we don't stay  
2     here and argue whether it should be 15, 20, 25.

3             If you say hypothetically we'll accept 20 for  
4     a beginning plan and the environmentalists say, no, we  
5     need 50 and the longliners say, no, we need 10, we  
6     could sit down and at least discuss a set of figures  
7     and see if we can come up with a compromise, or do it  
8     later on if you have an ad hoc committee going to meet  
9     between now and the next meeting. That's number one.

10            Number two, and again to address this bi-catch  
11     thing and again forgive my ignorance, there is  
12     legislation either underway from Senator Breaux's  
13     office regarding a bill for bi-catch which isn't  
14     necessarily tied in with your administrative duties in  
15     suggesting closures or not suggesting closures.

16            Is that correct? So that could come about.  
17     The buyback could come about whether I liked it, you  
18     liked it, or no one liked it if that bill goes through  
19     to all of Congress. Is that correct?

20            MR. CLAVERIE: No.

21            MR. McBRIDE: No, okay.

22            MR. CLAVERIE: Because Breaux told us that

1     unless the commercial and recreational groups got  
2     together and agreed to something he would not champion  
3     it. So NMFS is not in that loop directly but the way  
4     you stated it that even if nobody agrees to it, no, it  
5     won't happen.

6             MR. McBRIDE: Okay. Well, I'm not stating it  
7     that way. I'm assuming after the meeting that the, I  
8     guess the billfish committee and the longline committee  
9     met somewhere with Senator Breaux and you all came up  
10    with some sort of a ground rule -- whether it's 100  
11    percent polished or not I couldn't tell you -- which  
12    was reiterated yesterday by Senator Breaux's aid, and  
13    this is in the works.

14            Now, I'm assuming that the Billfish Foundation  
15    and the longliners have sort of agreed on basic  
16    groundwork, which is the Breaux plan is basically what  
17    you agreed to. Is that correct? No, it's not. Okay.

18            A PARTICIPANT: (Inaudible.)

19            MR. McBRIDE: Oh, okay. Oh, you're not part  
20    of it? Okay, I thought you were. I'm sorry.

21            A PARTICIPANT: (Inaudible.)

22            MR. DUNNIGAN: Yeah, they're still at lunch.

1 Robert Fitzpatrick, and then after Robert makes a  
2 comment let me put the other one up so that you've got  
3 the other sort of analysis to look at and compare.

4 Robert.

5 MR. FITZPATRICK: I just wanted to clarify  
6 something. So the SWO-3 which was the largest block --  
7 correct?

8 MS. LENT: (Inaudible.)

9 MR. FITZPATRICK: No? Well, the largest  
10 block, whatever it was represented by, that was about  
11 18 percent reduction in undersized swordfish  
12 discards --

13 MS. LENT: (Inaudible.)

14 MR. FITZPATRICK: I'm sorry?

15 MR. DUNNIGAN: She said depending on the  
16 number of months.

17 MR. FITZPATRICK: Right. If it was -- I'm  
18 looking at the entire -- if it was closed in its  
19 entirety. However, that took the effort and displaced  
20 it into the next adjacent blocks?

21 MS. LENT: (Inaudible.)

22 MR. FITZPATRICK: And the net gain was an 18

1 or so percent reduction?

2 MS. LENT: (Inaudible.)

3 A PARTICIPANT: That's correct.

4 MR. FITZPATRICK: So what would the -- if -- I  
5 mean, obviously they've been going back and forth about  
6 what the net gain would be because the quota would have  
7 to be caught somewhere else. But if those boats were  
8 taken out in a buyback and none of the effort was  
9 displaced, where would the gain be?

10 MS. LENT: The buyback for the Blue Water  
11 proposal or this one, if this was a buyout?

12 MR. FITZPATRICK: Well, isn't the largest area  
13 in your proposal similar to the size -- actually,  
14 theirs is larger.

15 MS. LENT: No, I don't think it is. Do you  
16 have the maps in front of you, Robert?

17 MR. FITZPATRICK: Somewhere.

18 A PARTICIPANT: That's Blue Water -- how about  
19 the maps? This is -- that's Blue Water's.

20 MR. FITZPATRICK: If you --

21 A PARTICIPANT: (Inaudible.)

22 MR. FITZPATRICK: Okay. Well, they're

1 similar. They're a similar size.

2 A PARTICIPANT: All right, similar size.

3 MR. FITZPATRICK: Similar size. I'm just  
4 wondering if there was a buyback with a similar sized  
5 block, because they are similar -- they're different  
6 but relatively close -- where would the net gain be?

7 Basically, if Blue Water's proposal was  
8 implemented with a buyback, and obviously there are  
9 some -- there's going to be catch whether it's on the  
10 Grand Banks or somewhere else where there will be some  
11 discards. However, put that aside, and approximately  
12 what sort of gains would be made with the buyback from  
13 a similar-sized closure, permanent closure?

14 MR. DUNNIGAN: Gary, would you like to answer  
15 that?

16 A PARTICIPANT: Yeah. The best guess that I  
17 can give you, Robert, is that the amount of gain in  
18 reduction of swordfish would not change very much at  
19 all, if any, because there is sufficient capacity even  
20 after you were to eliminate the vessels in that closed  
21 area, by their moving to other areas to actually make  
22 up the loss in the buyback, depending on the size of

1 the buyback because I'm assuming that the quota that  
2 would be available for the swordfish landings would  
3 still be filled. I don't think anybody would argue  
4 that you're not going to be able to get that swordfish  
5 quota.

6 MR. FITZPATRICK: I understand that, but I  
7 asked that you put that aside because you don't know if  
8 they're going to catch that quota on the Grand Banks or  
9 where they're going to catch that quota.

10 So putting that aside, acknowledging that  
11 there will be discards elsewhere in the fishery whether  
12 it's from some of the not purchased-back boats, bought-  
13 back boats, or otherwise about what gain would be the  
14 maximum potential of that closure.

15 A PARTICIPANT: We don't know because I don't  
16 know where outside the four-degree quota -- four-degree  
17 area outside the closed area they would fish, so we  
18 can't tell you.

19 MR. FITZPATRICK: What I'm asking is not  
20 speculating as to the additional -- if you just looked  
21 at, take a snapshot of closing the large -- the  
22 significant area and not displacing the effort into the

1 blocks around it. If it's 18 percent with the  
2 displacement, what is it without it? Assuming no  
3 discards from the rest of the fishery.

4 A PARTICIPANT: (Inaudible.)

5 MR. FITZPATRICK: Ballpark?

6 A PARTICIPANT: (Inaudible.)

7 MR. DUNNIGAN: We have Linda and then Russell.

8 MS. LUCAS: Linda Lucas. I have two questions  
9 for Karyl. I'm looking at this SWO-3, this diagram,  
10 and these maps that have quarter one, quarter two.  
11 Okay, I have a question about the maps first. This is  
12 what I'm talking about. Are the quarters chronological  
13 quarters so that quarter one is January, February, and  
14 March?

15 MS. BREWSTER-GEIZ: Yes.

16 MS. LUCAS: Okay. Is this per unit effort?

17 MS. BREWSTER-GEIZ: No.

18 MS. LUCAS: So these two are not really  
19 comparable?

20 MS. BREWSTER-GEIZ: Not really. We just used  
21 the maps to try to figure out what areas we should look  
22 at.

1 MS. LUCAS: Okay. So -- okay. Because on  
2 this one I get July, August, and September on the map  
3 as the months that pop up with the most action, and  
4 then on this it comes out to be October, August, and  
5 December.

6 MS. BREWSTER-GEIZ: Right.

7 MS. LUCAS: Right.

8 MS. BREWSTER-GEIZ: The graphs are based on  
9 per unit effort.

10 MS. LUCAS: Okay.

11 MR. DUNNIGAN: Russell Nelson. (Inaudible.)  
12 This is another set of output from the discussions that  
13 we had this morning. (Inaudible.) Maumus and then  
14 Pete.

15 MR. CLAVERIE: On the number one, wouldn't it  
16 be appropriate to say within what time frame? Because  
17 the plan says, I think, within ten years, a ten-year  
18 rebuilding program, so without a time frame on the  
19 rebuilding you don't have a real benchmark, I don't  
20 think. I may be wrong about that but I think that's an  
21 important component.

22 MR. DUNNIGAN: Time frame?

1 MR. CLAVERIE: Yes.

2 MR. DUNNIGAN: Would need to be added to it?

3 MR. CLAVERIE: Yeah, would result in recovery  
4 to BMSY within ten years, or whatever it is. I think  
5 it's ten years in the plan.

6 MR. DUNNIGAN: Let's put that up just to see  
7 what it looks like.

8 MR. CLAVERIE: I'm pretty sure it is, just  
9 going from memory.

10 A PARTICIPANT: (Inaudible.)

11 A PARTICIPANT: Well, that was one point. The  
12 other was isn't the percentage going to be different  
13 for the different stocks? So what does the percent  
14 stock-wide apply to? Is that some average of, you  
15 know, blue marlin, white marlin, sailfish, billfish?

16 MR. DUNNIGAN: Russell?

17 MR. NELSON: I would assume that given the  
18 data you'd calculate that percentage and apply it to  
19 each of the three species, whichever was (inaudible).

20 MR. DUNNIGAN: You would apply it to the three  
21 species stock-wide but you would have to calculate  
22 that. Yeah. John Graves.

1                   MR. GRAVES: Thank you, Jack. In my ICCAT  
2 position now I just want to point out that we have to  
3 have a benchmark in time where we're looking at the  
4 percent of reduction in mortality. The United States  
5 has already done through a significant reduction in  
6 mortality for billfish in both the commercial and the  
7 recreational sectors, and we did this proactively.  
8 When we got to ICCAT a couple years ago we were then  
9 forced to take another 25 percent reduction on top of  
10 what we had already taken.

11                   And as we do this domestically, it's  
12 imperative that when we go to the international forum  
13 that we have this incorporated into the hit that we've  
14 already taken, because if you look at that with the  
15 percentage reduction we took in the -- if you assume  
16 that everything released survives, so we've reduced 50  
17 percent commercially, 90 percent recreational.

18                   We've already taken a significant cut and yet  
19 stock-wide we need to have a reduction of mortality of  
20 50 percent. Our share of that stock, or share of the  
21 mortality, is much smaller than that and we've already  
22 taken that step.

1                   And so we're setting up the position here  
2       where we're setting the U.S. up to be responsible for  
3       taking the reductions in mortality they are going to  
4       save in Atlantic-wide stock, and that is a point of  
5       diminishing returns which we'll never fulfill.

6                   MR. GRAVES:   Just so I understand it  
7       (inaudible) not meant to go together.   This is an  
8       either/or situation.   It's number one option or number  
9       two option, correct?   I mean, these could be mutually  
10      exclusive.

11                  MR. NELSON:   These are just discussion points  
12      at this point.

13                  MR. GRAVES:   Okay.

14                  MR. NELSON:   I mean, if you can craft  
15      something that works them together, that would be fine  
16      too.

17                  MR. GRAVES:   I can't imagine how you could.  
18      One is calling for a very specific percentage that may,  
19      in fact, not have anything to do with minimizing  
20      economic displacement.

21                  MR. DUNNIGAN:   Nelson.

22                  MR. BEIDEMAN:   One of the concerns that I have

1     is how is this relevant to the Act? How is this  
2     relevant to our legal mandates? I don't see anything  
3     in the Act that says we have to reduce a directed  
4     fishery on, you know -- you know, on the bi-catch  
5     thing.

6                   But and I also agree with John Graves that  
7     we've already met that criteria and for us to be  
8     mandated to do more than our fair share of the  
9     international program, you know, would be  
10    disadvantaging and unfair.

11                   Now, we have volunteered to do more in order  
12    to set appropriate precedent to carry into the  
13    international forum to move it forward better. I mean,  
14    that is something that we have volunteered. But to be  
15    mandated by regulation or legislation would be a  
16    different matter.

17                   MR. DUNNIGAN: Okay. For those of you that  
18    came in late, let me put the first one back up. And as  
19    I said, this is what came out of Nelson and Maumus this  
20    morning doing some editing back and forth.

21                   Mau Claverie.

22                   MR. CLAVERIE: I didn't understand what Nelson

1     said just now. I thought the Magnuson-Stevens Act did  
2     require bi-catch reduction and that it required that  
3     species be rebuilt within ten years or less or  
4     whatever, you know, all that time frame criteria to MSY  
5     or better, and it's obvious to me that the two go  
6     together.

7                 If you have to reduce bi-catch on a -- if you  
8     have to reduce the kill on a species, whether it's  
9     directed or bi-catch, you still have to bring that  
10    species up within the time frame to the criteria you  
11    have to bring it up to.

12                MR. BEIDEMAN: As a rebuilding program goal?

13                MR. CLAVERIE: As a what?

14                MR. BEIDEMAN: As a rebuilding program goal on  
15    a bi-catch species? I don't think the Magnuson is  
16    going quite that far.

17                MR. CLAVERIE: Magnuson says rebuild billfish  
18    within ten years to MSY. Now, whether that billfish is  
19    caught as bi-catch or directed isn't discussed in the  
20    Act. I mean, I don't see the Magnuson Act saying just  
21    because it's bi-catch you don't have a rebuilding  
22    program for it. I think that's what I understood you

1       were saying and that's what confuses me. I didn't  
2       think you would say that.

3               MR. BEIDEMAN: My concern stems from the  
4       international, you know, perspective of it though, Mau,  
5       is that, you know, for us to, you know, be bound by  
6       regulation, you know, a goal to do the impossible and  
7       to do more than our fair share in the international  
8       program, I mean that's something that we can volunteer  
9       for.

10              But the precedent that it would set in these  
11       fisheries to be in regulation, I don't think we could  
12       go with. I perfectly agree with what me and you put  
13       down there.

14              A PARTICIPANT: I'm having trouble identifying  
15       problem one. What is it? Where is it?

16              MR. CLAVERIE: It's in your book, but that's  
17       why you're having trouble because there's a lot of  
18       pages.

19              A PARTICIPANT: It's in the fishery management  
20       plan.

21              A PARTICIPANT: I know. I can't find it.  
22       Where is it?

1 MR. DUNNIGAN: For billfish.

2 A PARTICIPANT: Yes. I'm looking at it. What  
3 am I missing?

4 MR. CLAVERIE: It's on page 1-3.

5 A PARTICIPANT: That's billfish.

6 MR. CLAVERIE: Do you have the amendment to  
7 the billfish, 1-3.

8 A PARTICIPANT: Just tell me what problem one  
9 is. What is it?

10 MR. CLAVERIE: Problem one is the intense --

11 MR. DUNNIGAN: Mr. Claverie.

12 MR. CLAVERIE: Okay, I'm sorry. Problem one,  
13 I'll read it -- it's very short. An intense  
14 competition for the available resource between the  
15 recreational fishery for billfish and other fisheries  
16 that have a bi-catch of billfish. That's problem one.  
17 And then number eight is on page 114, and that  
18 is consistent with other objectives of this amendment  
19 manage Atlantic billfish fisheries for the continuing  
20 optimum yield so as to provide the greatest overall  
21 benefit to the nation, particularly with respect to  
22 recreational opportunities and taking into account the

1 protection of marine ecosystems.

2 In other words, it's supposed to be to enhance  
3 the availability of the fish to the recreational  
4 fishery and that is added as an additional criteria.  
5 Other than just plain not killing the billfish because  
6 it's bi-catch or having bi-catch, it's also trying to  
7 enhance the availability of the fish to the  
8 recreational fishery. I think basically that's what it  
9 says when you take it all together.

10 A PARTICIPANT: I have two comments. One is  
11 I'll comment on this and then I'll get to the larger  
12 picture. I would say, you know, you would have to add  
13 to the portion where you have "by addressing problem  
14 one," well, you'd have to add, "by addressing the  
15 severe overfishing or the size of the commercial bi-  
16 catch problem." I mean, I don't have the exact  
17 language but I would want that general point in there.

18 But my second point is a larger one and it  
19 sort of -- isn't this sort of an exercise in redundancy  
20 in that National Standard Nine says minimize bi-catch  
21 to the extent practicable. National Standard Eight  
22 discusses the need to take into account the economic

1 consideration.

2 Aren't we just rehashing those points over and  
3 over and over rather than getting toward a real goal?  
4 So I feel like we're just spinning our wheels going  
5 over something that is already in front of us.

6 MR. DUNNIGAN: You know, a number of you did  
7 this this morning too. You kept talking about what we  
8 ought to be talking about and never got around to  
9 talking about it. So let me be a little more pointed,  
10 Russ. What goal?

11 A PARTICIPANT: (Inaudible.)

12 MR. DUNNIGAN: You said 50 percent, David.

13 A PARTICIPANT: 50 percent.

14 MR. DUNNIGAN: 50 percent of --

15 A PARTICIPANT: (Inaudible.)

16 MR. DUNNIGAN: Yeah, and is that --

17 A PARTICIPANT: (Inaudible.)

18 MR. DUNNIGAN: David, use the -- David Wilmot.

19 MR. WILMOT: David Wilmot. I'm happy to  
20 debate. I also would be happy to start with one of the  
21 areas proposed yesterday and discuss the pros and cons.  
22 I think that may be a little premature since a lot of

1     us are uncomfortable with the methods that we used,  
2     various assumptions.

3             That's what Russ is getting at here. We know  
4     National Standard Nine, National Standard Eight, One  
5     and Two, et cetera. We may debate what they mean. Our  
6     attorneys debate what they mean and the court is going  
7     to decide what they actually mean if the interpretation  
8     NMFS has used is correct.

9             But, in general, we know what they're telling  
10    us to do. This is definitely trying to repackage  
11    national standards and things that we know we have to  
12    do. Bottom line is how much are we going to hurt  
13    fishermen to accomplish the conservation gains that we  
14    must do under the law? We all know where we're trying  
15    to go with this.

16            I don't understand why we continue to run  
17    around in the circle. It's why we tossed out 50  
18    percent. It didn't say it had to be done in one year.  
19    If we do phase-in, that's the type of discussion we can  
20    have. The number -- if it can't be done, let's discuss  
21    that type. Number, area, I don't care where we start,  
22    but this is ridiculous.

1 MR. DUNNIGAN: Nelson and then Mau Claverie.

2 MR. BEIDEMAN: You know, with what science  
3 would we debate? Right now we've got three different  
4 sets of science. With what common knowledge, you know,  
5 on the data. It's all the same data but with what  
6 science will we debate. And I'm sorry for being late  
7 but was the technical scientific team discussed, you  
8 know, before I got back?

9 MR. DUNNIGAN: No.

10 MR. BEIDEMAN: Okay. Well, I thought one of  
11 the important things was to set that up so that  
12 ultimately this body has, you know, common best  
13 available information in formats that we can understand  
14 to go by.

15 MR. DUNNIGAN: A reply, David?

16 MR. WILMOT: I do think there is enough on the  
17 table for us to move forward with a very brief  
18 discussion. We're running out of time. And what I  
19 mean, Nelson, if you look at SWO-3 and you look at  
20 what's labeled Blue Water Fisherman's Association 1,  
21 there is a lot of overlap. The numbers aren't  
22 dramatically different.

1           That might be a starting point to discuss if  
2   the conservation gains for swordfish and other species  
3   are acceptable. Then a discussion can be had regarding  
4   the impacts, the socioeconomic impacts. You've made it  
5   clear that without a buyout you would find those  
6   impacts far too great. I may find that I don't even  
7   think the conservation benefits are large enough  
8   independent of a buyout. But even let's say there was  
9   a buyout. The 20 percent gain might not be enough.

10           So I think that if we were to accept some of  
11   the numbers that are put in front of us for discussion  
12   purposes only, we can discuss this. I'll tell you  
13   right now I don't think I'm comfortable when I look at  
14   the shark graph, the shark lines, on those figures.  
15   The sharks don't get any benefit and, in many cases  
16   they do down. Swordfish looks pretty good to me.  
17   Sharks look pretty bad.

18           That's where I would start the discussion, see  
19   what others think about just the conservation side  
20   putting on hold the socioeconomic impact for a second.  
21   Would we be comfortable with the conservation gains  
22   here or not, as part one?

1                   MR. DUNNIGAN: Nelson, a reply before we go to  
2 models?

3                   MR. BEIDEMAN: Okay. One of the problems,  
4 Dave, is, you know, what we thought was the most  
5 appropriate is to have our percentages go to, you know,  
6 U.S. effort within the EEZ. And, you know, it's 47.4,  
7 you know, the area one and area two from the Blue Water  
8 -- you know, the joint proposal, would reduce swordfish  
9 discards, dead discards, by 47.4 percent. The numbers  
10 are there. The individual numbers of animals.

11                  I would caution everyone that this is all  
12 information taken from Jean Kramer's log book database,  
13 and we know that, you know, reporting fishermen, you  
14 know, have inaccuracies, you know, this way and that  
15 way. I would pretty much presume that it's pretty  
16 standard that they have inaccuracies across species and  
17 across regions, et cetera.

18                  But that gives you some basis there. So,  
19 basically, what we're looking at a total of, you know,  
20 18,000 or 20,000 swordfish dead discards that this plan  
21 would reduce 8,444 of them.

22                  You know, not only did we take into

1     consideration Jean and Jerry's 11 2-degree squares but  
2     also, you know, the knowledge of fishermen which they  
3     encouraged us to do, you know, when we began this  
4     program. They said, look, go out to the fishermen.  
5     They know where, you know, the primary areas of this  
6     are.

7             And our objective in setting up those areas  
8     was strictly to be the most effective. We did make one  
9     mistake on the northern end. You know, fishermen have  
10    since pointed out that from 33 to 34 really is not a  
11    problem. And we went back into the data and we did the  
12    research and, indeed, from 33 to 34 is 377 dead  
13    swordfish discards over six years and eight marlins  
14    over six years; whereas, the next lower is 3,700 over  
15    six years. So we agreed with them on that.

16            But, you know, these are basically the figures  
17    and I think if, you know, bear out the science from  
18    Jean Kramer that we were given that you'll find that  
19    it's as accurate as, you know, what we've been given.  
20    And what's wrong with 24 percent of marlins and 47  
21    percent of swordfish?

22            MR. DUNNIGAN: Let's go to Maumus Claverie and

1       then Russell Nelson and then back to David.

2                   MR. CLAVERIE:   Thank you.   Maumus Claverie.

3       David, I appreciate what you're saying and the 50  
4       percent rings a bell in my mind because I thought  
5       that's what SCRS told us relative to billfish, to the  
6       marlins, that the marlin mortality in the Atlantic  
7       would have to be reduced by in order to rebuild them.  
8       I don't remember if ICCAT SCRS set a ten-year time  
9       frame or what, but they did say to rebuild them.   So I  
10      assume that's where that number comes from.

11                   But when we're talking about specific micro-  
12      areas, which is the time/area closures, the percentage,  
13      it seems to me, should be higher in that area in order  
14      to benefit from the fact that you are -- there's no  
15      sense in closing a time and area, I don't think, unless  
16      that time and area, if you allowed fishing in there,  
17      would produce an excessive amount of bi-catch that you  
18      are now saving.

19                   And so to say that the average -- the criteria  
20      averaged over the entire Atlantic would be the same  
21      criteria you're using for the closures, the time/area  
22      closures, to me seems to be self-defeating, that you

1 wouldn't want to identify a particular area unless the  
2 area is large enough to, in itself, attain the 50  
3 percent. In other words, let them kill everything they  
4 can catch elsewhere but you can't fish in here, which  
5 we don't have. We don't have that circumstance.

6 Or unless the percentage gain in relation to  
7 what the directed fishery is is so great that it's a  
8 better place to close than somewhere else, it's better  
9 for the directed fishery and it's better for the bi-  
10 catch fishery.

11 So to be locked into a particular percentage  
12 which equals what the overall percentage is, to me,  
13 doesn't cut it for a time/area closure discussion.

14 MR. DUNNIGAN: Russell Nelson.

15 MR. NELSON: Mau, I think that's where we  
16 started. What we did in starting is try to identify  
17 areas where the ratios of bi-catch to targeted catch  
18 were high.

19 MR. CLAVERIE: Right.

20 MR. NELSON: And I think that's where this  
21 exercise is going. But again, David, I am hesitant  
22 about arguing about the utility of any of these

1 particular areas given the information that we've got.  
2 I mean, so much is dependent on what you do with this  
3 assumption of effort.

4 Now, Nelson is giving us estimates which are  
5 sort of in one currency. He'll say these squares we're  
6 proposing in these squares these many fish have been  
7 killed and they won't be killed any more. And then  
8 Karyl has given us using another currency, which is  
9 looking at catch per effort and then the shift of  
10 effort.

11 Now, I can tell you I've had direct experience  
12 with a wide time/area closure to the harvest of  
13 amberjack which occurred from Cape Canavral, which is  
14 that little bump on the right side of Florida about  
15 half way down south. We put that in place, a one-month  
16 closure during a spawning aggregation period which,  
17 actually, it's dense for three months but one month of  
18 that in the middle was closed.

19 One year after we looked at the first year,  
20 what had happened is that effort in the weeks prior to  
21 and the weeks after the closure increased to the extent  
22 that total effort in that three-month period was higher

1     than it had been the year before when all three months  
2     were open.

3             So if you don't close -- so I think under some  
4     scenarios that Karyl has modeled effort shifting out of  
5     that. In this month, the effort will spread out into  
6     four degrees in all directions.

7             I think more likely what will happen if you're  
8     closing one month is that the effort would more or less  
9     catch -- it wouldn't fish anywhere else, it would stay  
10    in the hot spots, but it would fish more heavily a  
11    couple weeks prior to and a couple weeks after. So in  
12    that case, I think her estimates of what we get in  
13    terms of reducing bi-catch might be overestimates.

14            On the other hand, in terms of longer  
15    closures, I'm not sure about this four degree spread.  
16    I'm not sure a lot of the vessels out there are really  
17    going to be able to fish four degrees west effectively,  
18    and that would happen. So in that case, some of her  
19    estimates might be underestimates in my way of  
20    thinking.

21            I think we really need just -- she presented  
22    this, here's one assumption, and I think we need to try

1 to assemble some kind of technical group and come to  
2 some conclusion. For people who've got experience  
3 dealing with this, it's not going to be written down.  
4 There is some literature on it. We've done several  
5 things in Florida when we've looked at effort shifting  
6 in different fisheries over different periods of time,  
7 so there is data available and I'm sure there are from  
8 other places.

9 But I just think we need to get a currency  
10 before we start staking our bets on what might not turn  
11 out to be real. We might say this looks great and it  
12 turns out it's not going to be there. I'm not arguing  
13 we wait until October either but I'm just a little  
14 concerned about arguing the utility of let's close this  
15 area or not for this period of time or not when, at  
16 least in my mind, I'm not sure what the impacts of that  
17 are going to be. And that's just in the biological  
18 basis so that doesn't even go to the impacts in terms  
19 of the social or economic impacts.

20 And I do think that within these two huge and  
21 incredibly complete plan amendment and a new plan that  
22 we've got there's probably enough information in there

1 looking at vessels and who is fishing to get to look at  
2 some of that information too.

3 MR. DUNNIGAN: Pete Jensen and then Bob  
4 Hueter.

5 MR. JENSEN: If I were to take the pragmatic  
6 approach here, NMFS is reluctant to tell us exactly  
7 what they're proposing other than SWO-3 and some choice  
8 in there. I have a lot of the uncertainties also about  
9 what's going to happen but, to me, the pragmatic  
10 approach is NMFS has said they're going to do something  
11 September 1st.

12 The role of this advisory panel, it seems to  
13 me, is to give them the best advice we have. And  
14 whether we agree or disagree with September 1, it looks  
15 like they're going to do something. It looks like it's  
16 going to be some part of SWO-3 unless something unusual  
17 happens here.

18 It seems to me that a lot of the suggestions  
19 that have been made are reasonable, and that is we need  
20 a workshop, we need peer review, we need to think a lot  
21 about this. Why isn't the pragmatic approach to  
22 suggest that for the next fishing year that the closure

1     in SWO-3 be in October while you buy time? That way  
2     NMFS can show that they're trying to address the  
3     problem yet giving the advisory panel and others  
4     opportunity to explore this in more detail.

5                 We know that the buyout proposal is not going  
6     to be a reality for some time. It's not going to be  
7     here tomorrow. There's still a lot of debate there.  
8     That would be my pragmatic approach to this for the  
9     next fishing year to buy the time.

10                MR. DUNNIGAN: Bob Hueter.

11                MR. HUETER: I can't disagree with what Russ  
12     Nelson said. I also am concerned about the currency.  
13     But following in Pete's vein, if one looks at the two  
14     calculations, the NMFS numbers say a 24 percent gain or  
15     24 percent reduction in discards, Nelson's numbers are  
16     47 because you don't do the displacement calculation.

17                I was simply picking up on that, making a very  
18     large assumption that the numbers are correct, that  
19     they may be between 24 and 47, and asking the simple  
20     question: Would that be enough for me? I think that  
21     based on just swordfish I would be feeling pretty good  
22     about those savings. Nelson has worked to identify the

1 proper area. NMFS has worked to identify the proper  
2 area. It's a hot spot. We know that. It's showing  
3 this in the numbers.

4 I would then follow it up to simply add that  
5 some of the other species don't have the benefit that  
6 would be needed. We'd have to make that up elsewhere.  
7 A couple of species it's actually hurts them a little  
8 bit and I would want to think about that to see if some  
9 shifts in the exact location could help those species.

10 It will indeed require additional analyses but  
11 I'm trying to be forthcoming just to toss out on the  
12 table my general impressions where I would feel  
13 comfortable. For swordfish looks pretty good. We're  
14 starting to get some benefits for sailfish. I'm very  
15 uncomfortable because the other species don't gain;  
16 therefore, I would want to see additional areas. I  
17 need the data to go all the way but on these data,  
18 assuming the calculations are correct from Nelson and  
19 from NMFS, I can make those general types of  
20 statements.

21 MR. HUETER: Bob Hueter. I just wanted to  
22 second what Russ Nelson said. I'm really uncomfortable

1     considering any of this really serious in detail. I'm  
2     just thinking I'm starting to feel like somebody that's  
3     at a car dealer and I'm haggling over the price and I  
4     don't know whether I'm buying a Cadillac or a Yugo.

5             I mean, I'm sort of saying, well, that's a  
6     good price or, you know, can you bring it down, but I  
7     don't know what I'm getting. So I'm really  
8     uncomfortable with taking this very far at this point.  
9     And it's not just that this has been dumped on us  
10    because that always happens, as was pointed out this  
11    morning; it's that this information is too raw.

12            I don't know what the assumptions are in the  
13    fisheries displacement models. I don't necessarily  
14    have to be part of this technical workshop but I  
15    certainly want to see more presented before I can get  
16    too excited about any of these various scenarios.

17            MR. DUNNIGAN: Nelson, then Rusty.

18            MR. BEIDEMAN: Nelson Beideman, Blue Water.  
19    You know, I appreciate the comment about the currency  
20    and what not. I would like to let everyone know that  
21    we've requested the large coastal shark and pelagic  
22    shark stuff but we don't have the information. You

1 know, we haven't gotten the data where we could put  
2 those benefits.

3 I don't understand why the National Marine  
4 Fisheries Service models show a going down on large  
5 coastal sharks because we fully expect that those  
6 areas, especially year round on the Atlantic side, are  
7 going to have very, very, substantial large coastal  
8 shark reductions. And we're very anxious to show those  
9 benefits but we simply have not been given the data.

10 But Bob might, you know, comment on that  
11 because, you know, take a look at where that is. I  
12 mean, that's the whole wintertime, you know, fishery  
13 for that Atlantic portion. I'd say it's a large  
14 proportion of the large coastal shark.

15 MR. DUNNIGAN: Rusty Hudson.

16 MR. HUDSON: Rusty Hudson, directed shark. In  
17 Chapter 7 on page 26 it talks about the 5 to 10 percent  
18 of the large coastal shark commercial quota. I would  
19 be interested in attending this technical workshop if  
20 they have such a thing so that we can get into the  
21 numbers because I agree with what Nelson is saying that  
22 that would be a substantial decline in the amount of

1       discards dead and/or landings from those pelagic  
2       efforts in those area because they have a large  
3       interaction south of the Mid-Atlantic region with large  
4       coastals.

5                   MR. DUNNIGAN:   Bob Hueter and then Russ  
6       Nelson.

7                   MR. HUETER:   Yeah, but see this is the whole  
8       problem.  It's not that simple.  It depends on what  
9       assumptions you make in terms of where people go when  
10      they're forced out of an area.  What do they do?  Do  
11      they then all directed shark or something?

12                   That's why it's a very complex scenario, and  
13      for us to just without getting the background as to how  
14      these models were constructed for us to just say, okay,  
15      this looks great, let's have these three months.  I'm  
16      really uncomfortable with it.  I need to know a lot  
17      more.

18                   MR. DUNNIGAN:   Russell Nelson.

19                   MR. NELSON:   Thank you.  Thus far today it  
20      seems our discussions have been looking at the Blue  
21      Water or the SWO options.  As I recall the presentation  
22      yesterday, the Service was also presenting a separate

1     and additional closure in the Gulf which would have  
2     also addressed billfish. That was the idea, right? So  
3     we do have two presentations.

4             And I've got to say, I mean, I'm not arguing.  
5     Those of you that know me know I'm probably one of the  
6     most impatient guys that can get involved in this  
7     process, and often to my detriment. And I'm not  
8     arguing for a delay.

9             But if I was to propose something, a closure  
10    back in Florida if we were working on this, and I  
11    realized that at this point impacted parties were  
12    likely to go to court, and I looked at the record I had  
13    and the science behind what the criteria for selecting  
14    a closure was, I would be, you know, not real anxious  
15    about that. We do need to get more detail and more  
16    reasons why we're doing this, what the goals are, and  
17    the data that shows us what these things are going to  
18    do.

19            So I don't know, Jack, how you argue for it.  
20    I mean, if we're going to come out of here  
21    recommending, I'd like to see us recommend a goal. I  
22    don't know if we're going to do that. I know we're not

1     going to come out of here saying this particular area  
2     is the one we should look at as a preferred  
3     alternative, but I would at least like to get us -- I  
4     think I've heard all of us say that there seems to be a  
5     need for some kind of technical workshop, which I also  
6     have no desire to be involved in, but that the symbols,  
7     the technical people who sit together and struggle with  
8     some of the stuff that we're trying to struggle with.

9                 MR. DUNNIGAN: Gary Matlock and then Ray  
10    Bogan.

11                MR. MATLOCK: I don't know if this will help  
12    but, hopefully, it will. Several different items for  
13    you. The first is that dealing with a time/area  
14    closure to reduce the bi-catch of fish on longlines is  
15    not new. We didn't just walk in today and say, hey,  
16    we're going to go do this or we're going to try to do  
17    this. We proposed an area to close off the Florida  
18    Straits throughout the entire HMS FMP process.

19                All of the comments we received during that  
20    said that that area was too small, it would be  
21    ineffective at accomplishing the objective of  
22    substantially reducing the bi-catch of things on

1 longlines.

2           Our response to that in the HMS process was to  
3 not implement that particular closure but to tell  
4 everyone in writing as clearly as we can we are going  
5 to implement a closure and it will be bigger than what  
6 we proposed in the Florida Straits. What we've done is  
7 to take a very simple approach to addressing what area  
8 could be closed or areas could be closed that are  
9 larger than Florida Straits that would accomplish both  
10 reductions in the swordfish bi-catch and in billfish  
11 bi-catch.

12           And you've gotten the results of that  
13 approach, that very simple approach, which is basically  
14 close an area, assume that the catch in that area is  
15 going to be zero because everyone will abide by the  
16 law, and move the effort into a four degree area around  
17 that closed area, apply that effort that would be  
18 moved, assuming all of it would be moved which we know  
19 is not right, times the catch per effort for those  
20 species in those adjacent areas from the past data, and  
21 calculate the pluses and the minuses. It's a very  
22 simple thing. There's no complexity to this.

1           That result says if those assumptions, i.e.,  
2   that people will move from where they are now out to  
3   four degrees and all that effort will go out there,  
4   which we know is wrong, it will be less than that more  
5   likely, here's what the outcome is.

6           We put together what we think at this point is  
7   the best approach from the two closures that we've  
8   given you to accomplish the following objective. And  
9   this objective is structured around particularly  
10   National Standard Nine, bi-catch, which says we are  
11   trying to obtain the most reduction in the bi-catch of  
12   those fishes for which we are concerned while, at the  
13   same time, minimizing the negative impact on the  
14   directed fishery to the maximum extent possible. So  
15   we're attempting to achieve simultaneously several  
16   different outcomes, depending on the species.

17           What you've got from us is something that will  
18   achieve reductions in bi-catch on the order of  
19   something around 0 up to about 20 percent depending on  
20   the species, while reducing the directed landings of  
21   swordfish by about 5 to 7 percent, depending on the  
22   time that you pick.

1           We've given you that analysis. That's what  
2   we've done. We've laid out what we've done and we've  
3   showed you what the results are that are.

4           The reason that we have picked September the  
5   1st as a time within which to accomplish a larger  
6   closure than what we proposed in the HMS process is  
7   because we think, (a), we can't get it done before then  
8   and, (b), if you get it done by September there will be  
9   benefits to be achieved this year in an area to be  
10   closed for both swordfish and billfish.

11          If we are unable to get it done by September,  
12   depending on the species, the benefits that can be  
13   achieved range from none for some of the billfishes if  
14   you do it, say, in October to some numbers for some of  
15   the other species, again depending on the areas that  
16   are closed.

17          What we are also trying to do is to make sure  
18   that we do not box ourselves in domestically before  
19   ICCAT has an opportunity to develop a rebuilding plan  
20   for swordfish and billfish, which they have not yet  
21   done.

22          Therefore, we have not picked a percentage

1 reduction in the bi-catch because we don't want to  
2 commit domestically to something that will interfere  
3 with Commissioner Delaney's role in making sure that  
4 the international objectives do not conflict with the  
5 domestic ones.

6 So we didn't pick a percentage to achieve  
7 through this. What we did was to let the data tell us  
8 what percentages you could achieve, and we've done that  
9 and we've given that to you.

10 Now finally one last comment for you, and it  
11 is, if I can remember it as it escapes me here.

12 MS. LENT: You have a great staff.

13 MR. MATLOCK: Yeah, right. Geez, it just went  
14 away. Oh, I know what it was. We're not attempting to  
15 achieve the bi-catch reductions through time/area  
16 closures alone. We intend to accomplish the objective  
17 of reducing the bi-catch to whatever level it needs to  
18 be to accomplish whatever rebuilding plans we have in  
19 place through a combination of time/area closures, gear  
20 modifications, fishing behavior changes, and so on. So  
21 this is only one piece of the puzzle.

22 That's why, again, we didn't get a or develop

1 a specific target that we're trying to get to. We let  
2 the data tell us what you could get if you did this,  
3 these two closures that we've identified and make the  
4 assumptions that I've tried to outline for you are  
5 made. Now, that may or may not help you but that's  
6 what's going on with the Service.

7 MR. DUNNIGAN: Ray Bogan.

8 MR. BOGAN: Thanks. Gary, you raise a good  
9 point and that is that we have discussed time and area  
10 closures on more than one occasion. Indeed, NMFS has  
11 provided us over time with charts, color charts which  
12 for folks like me helps me identify things quickly as  
13 to the effect of the time/area closure.

14 One of the concerns I have about what we're  
15 doing now and which is going to prompt a recommendation  
16 is that we have half the group who wants to debate, you  
17 know, let's go further, get more information,  
18 presumably get the information that we had about six  
19 months ago that NMFS already provided to us and bring  
20 that back in and discuss that, because I thought that  
21 was pretty thorough, that information that we were  
22 provided with on the effects of various fisheries in

1 conjunction with what's been presented to us yesterday.

2 I suggest, unfortunately, that we get off of  
3 this and we go on to something else and we come back  
4 here the next time ready to get all the information  
5 that we've been handed for the last six months and  
6 discuss it. But right now we're not because the debate  
7 is stagnating on, you know, the information is not  
8 there to discuss it.

9 The unfortunate thing about that is that in  
10 very simplistic terms I thought the idea of a time/area  
11 closure was something that we were all pretty excited  
12 about, and I think what those who want more information  
13 are asking for is, hey, look, let's make sure we can  
14 quantify what we're getting out of the deal.

15 And that's very understandable, but I was  
16 hoping that we could talk a bit more about the concept  
17 of what Blue Water has proposed, of what NMFS has shown  
18 us on these various charts and that kind of thing. And  
19 I just feel like we're getting way too bogged down.

20 And my other idea is that we were going to  
21 have another part of the agenda in which we were going  
22 to be able to express some other views on other

1     fisheries and some of us are hitting the road. So  
2     instead of debating the fact that we don't have  
3     information or we do have information, maybe we can  
4     move on.

5                 MR. DUNNIGAN: You're saying other fisheries  
6     than just the time/area closure --

7                 MR. BOGAN: My recollection on the agenda was  
8     there was something --

9                 MR. DUNNIGAN: There is some other business  
10    later in the day.

11                MR. BOGAN: Yeah, and I think we're at that --

12                MR. DUNNIGAN: So you want to get on to that,  
13    okay.

14                MR. BOGAN: And we're on that, yeah. But  
15    again, get the group together that's going to come in  
16    and coalesce that information and that understands it  
17    better. You know, all that stuff we've had for many  
18    months to work with, get that stuff together. Sit down  
19    and go over it and come up with some recommendations.  
20    Quantify things.

21                MR. DUNNIGAN: Well, I mean, it has been a  
22    very clear sense around the table that the idea of

1 getting a technical group together to work with the  
2 various data sets that we looked at yesterday and try  
3 to find some commonality between them and to improve  
4 the information coming in to us is an important thing  
5 to do.

6 And I think there is also a common sense  
7 around the table that there isn't a whole lot more we  
8 can do except give some initial reactions, you know,  
9 somebody said that it looks good for one species but  
10 maybe not for others, I have to know more, I have to  
11 have a better sense of where I really want to end up  
12 with the issue. And all of that is going to require  
13 some further discussion that you can't get into today.

14 Those are sort of a couple of basic things  
15 that have been fairly consistent throughout the  
16 discussion even yesterday.

17 MR. BOGAN: And let me say that my initial  
18 reaction is that there are two areas that were never  
19 considered prior to the FMP coming to place for the  
20 Blue Water/billfish proposal coming about, and that's  
21 something I think that's worth mentioning is that there  
22 is something being proposed here that's never been

1     proposed before, substantively being proposed rather  
2     than just discussed academically.

3             MR. DUNNIGAN:   Okay.   We had Gail and then  
4     Russell Nelson, and then Nelson and a bunch of people.

5             MS. JOHNSON:   Thank you.   Gail Johnson.   There  
6     is another point to all this that hasn't been brought  
7     up yet, and it's crucial.   And that is no matter what  
8     areas we choose, if it happened to be September 1st  
9     there is the small matter of enforcing this very large  
10    area which may or may not have irregular borders to it.

11            It's my understanding that the vessels  
12    monitoring system is supposed to be online by September  
13    1st but my gut feeling and from information gathered  
14    from various places is that it is not going to be  
15    ready.

16            And that is of crucial importance because not  
17    only in that area are there boats that have to stay in  
18    the area because their size and capabilities, but  
19    that's a huge area that needs to be transitted by  
20    vessels, not necessarily longline vessels but vessels  
21    of all types.

22            We need the ability to transit that area with

1 the know-how to see the vessels in there and no, he's  
2 not fishing. You need to be able to tell whether a  
3 boat is fishing or not, so unless we know what the  
4 alternative to the vessel monitoring system is or it's  
5 online, this is premature. We have to be able to  
6 enforce whatever we choose here.

7 MR. DUNNIGAN: Russell Nelson.

8 MR. NELSON: I guess just in response to Gary,  
9 I mean, yeah we could put -- we should put some areas  
10 out there and we should close them. But to do this,  
11 it takes energy and time and it wears the process out  
12 so --

13 (End of Tape 5, Side B.)

14 MR. NELSON: -- the next time we're examining  
15 this is the characteristics of the vessels that are  
16 expected to be displaced from any given closed area.  
17 And the reason for that is, first of all, the size and  
18 type of vessels will guide us in trying to figure out  
19 just where they are most likely to disperse to when  
20 they leave that area and; number two, it will also give  
21 us information to assess the impacts of anything we  
22 might go forward with in terms of National Standard Ten

1     because it's my understanding that quite a number of  
2     the boats involved are likely to be small fiberglass  
3     vessels that are really ill-designed or ill-equipped to  
4     be pushed a great distance offshore or, for that  
5     matter, to be pushed from the east coast of Florida or  
6     the south Atlantic bite up into the area of Cape  
7     Hatteras or further north during times of the year when  
8     the weather is very bad. So I think it's very  
9     important we consider that dimension as well.

10           MR. DUNNIGAN: David Wilmot.

11           MR. WILMOT: This is a tough one. Obviously  
12     we would love to have all of the data before we move on  
13     this. Of course. But there are two issues here. One,  
14     I have to agree with Gary we have known that this was  
15     coming for a long time. A lot of information has been  
16     presented in the past. Some new information has been  
17     presented here.

18           I think there may be a way to move forward  
19     short of stalling the process and there's no other way  
20     to look at it by doing a technical workshop. It may be  
21     that NMFS could put together very quickly a paper with  
22     background materials and methods, results, discussion,

1 et cetera, that outlines what has been presented to us.

2 We could then review that document and  
3 provides comments back very quickly. There is no  
4 reason this shouldn't be a priority for everyone  
5 sitting around this table.

6 At that time, if major objectives are raised  
7 based on the data that can be presented, and I might  
8 add that the same should be requested of Blue Water  
9 since an identified area has been put forward, if major  
10 objectives are raised at that time NMFS could make a  
11 decision whether or not they would need to pull back  
12 for the right reasons and look at it more closely.  
13 That seems to me to be a fair compromise so that we  
14 don't stall this. We can keep it moving forward and  
15 the best data can hopefully come forward.

16 I have no illusions that there will not be  
17 changes to this process on a regular basis. I suspect  
18 we're going to find that the reaction in the fishery is  
19 different than assumed in various sections. I suspect  
20 that the biology of the fish is going to surprise us  
21 just a little bit here in a number of cases. It's  
22 going to change with time.

1           We wouldn't want to make a big mistake.

2   People's lives are at stake here. Their livelihoods  
3   are at stake, and I recognize that. But adjustments  
4   can be made very quickly if major things come to light.  
5   So that's the first thing I would propose.

6           Second, Gary, you said that you would not want  
7   to interfere with the international process by having a  
8   strict target from the domestic side. That argument  
9   would have also applied for rebuilding. One could have  
10  argued -- a lot of people did argue -- don't lock me  
11  into a ten-year rebuilding plan when I have to go to  
12  ICCAT. It can work.

13           I would argue that we domestically can have a  
14  very hard target and it's not going to handcuff us  
15  internationally. Hopefully it will give us good  
16  marching orders, but I don't think with overfishing it  
17  killed us. While I may disagree with what happened  
18  with bluefin, it didn't kill us in negotiation. I  
19  don't believe it would on bi-catch with any of these  
20  species either.

21           So that's my proposal with how to move  
22  forward.

1                   MR. DUNNIGAN: Thank you. Pete Jensen then  
2 Russ Nelson.

3                   MR. JENSEN: Well, perhaps I'm out here in the  
4 twilight zone. You scheduled this meeting today in  
5 order to give you time to do everything that's  
6 necessary to get something in the Register by September  
7 1st, and I know what that process is, which means that  
8 you're going to have to have a proposal out on the  
9 street in order to do the public hearings and  
10 everything else very, very, soon.

11                  I haven't heard you suggest anything that  
12 you're willing to extent that schedule so I'm still  
13 operating under the assumption that you are going to go  
14 ahead on that schedule.

15                  Am I reading it correctly?

16                  MR. DUNNIGAN: Gary.

17                  MR. MATLOCK: With what we know today, yes.

18                  MR. DUNNIGAN: Russ.

19                  MR. NELSON: I would suggest then to leave  
20 this subject means that we give no advice at all to  
21 NMFS on this issue, and I think that's just abrogating  
22 our responsibilities to give them our best advice today

1     because you're going to see it on the street pretty  
2     darn quick.

3                 MR. DUNNIGAN:   Rebecca.

4                 MS. LENT:   Ending this AP meeting today  
5     doesn't necessarily rule out the possibility of a  
6     technical working group if that's something we could  
7     arrange or something as David suggested where we send  
8     out a document and ask for written comments.   The AP  
9     deliberations amongst you has to be in a formal meeting  
10    with open meeting and all that, but you could  
11    individually respond and write legal counsel.

12                MR. DUNNIGAN:   Russ Nelson.

13                MR. NELSON:   Well, given the possibility or  
14    probability or possibility that you are going to send  
15    out proposals as a preferred option and go to public  
16    hearings, you did share with us yesterday what you felt  
17    were your preferred alternatives for the areas but you  
18    never mentioned what time period you were preferring or  
19    you were going to suggest.   Can we find that out in  
20    terms of how long you're suggesting?

21                MS. LENT:   Once again, this is given the  
22    options --

1           MR. NELSON: Pending your consideration of  
2 everything you've heard today.

3           MR. DUNNIGAN: Rebecca.

4           MS. LENT: Let's see. I believe for swordfish  
5 what we were looking at is a SWO-3 and going out as far  
6 as the month of June cumulative, so that's closing for  
7 all of the year except for May, April and -- except for  
8 April and May.

9           A PARTICIPANT: The billfish. The billfish.

10          MS. LENT: The billfish (inaudible). January  
11 and July, August, September --

12          A PARTICIPANT: What months?

13          A PARTICIPANT: (Inaudible.) It would be  
14 those three.

15          MS. LENT: Okay. And then for billfish, BIL-4  
16 which is the smallest area, July, August and September.  
17 And again, this is all preliminary analyses. Based on  
18 these options that we have in front of us, this is what  
19 looks the best. We may have further analyses given  
20 some of the ideas from Goodyear's work and other  
21 suggestions that we've had.

22          MR. DUNNIGAN: Russell.

1           MR. NELSON: And that would -- and with the  
2 billfish then you are also at this point or prior to  
3 this meeting or whenever we're considering that your  
4 alternative would extend those closures into Mexican  
5 waters or at least to the extent you could by  
6 referencing the U.S. vessels.

7           MS. LENT: Let me say this for the third time,  
8 and I hope it's clear. Even though we had some records  
9 from the log books of sets made in other countries'  
10 EEZs, if we had a time/area closure we could not have  
11 that apply to other countries' EEZs. We could have it  
12 apply outside the U.S. EEZ to U.S. boats.

13          MR. NELSON: Would that -- going into this  
14 meeting had that been your intent by giving us those  
15 areas that included Mexico that if you proposed it as a  
16 preferred alternative it would include a provision  
17 which would have prohibited U.S. vessels from fishing  
18 in that area?

19          MS. LENT: (Inaudible.)

20          MR. DUNNIGAN: Rebecca's answer was yes. Mau  
21 Claverie and then Randy Blankinship.

22          MR. CLAVERIE: Rebecca, if you're going to do

1     that in the Gulf, my request is that you cover more  
2     years than just '96-'97. As you saw from the Goodyear  
3     presentation, I think if you do that it's going to move  
4     further east because those fish are, you know,  
5     sometimes here and sometimes there. And I wish you  
6     would give more consideration to the enhance the  
7     recreational part.

8             MS. LENT: Okay. And we did pick that comment  
9     up as a very important point that Phil made yesterday  
10    was that the reports of billfish bi-catch were lower in  
11    '96 and '97 so we may need to take another look at all  
12    that.

13            MR. BLANKINSHIP: Also, if you're going to do  
14    some re-analysis, in regard to including that area in  
15    Mexico in figuring where that effort may transfer to,  
16    instead of going in four degrees all directions you  
17    might just direct it in the U.S. direction instead of  
18    including down in the Mexico EEZ.

19            MR. DUNNIGAN: Okay. The last couple of  
20    comments have been some specific suggestions as to  
21    where the particular delineations of these areas might  
22    be looked at a little differently or revised for some

1 specific issues that Mau and Randy are aware of.

2 Steve, did you have a comment? Steve Loga.

3 MR. LOGA: Just a question for Rebecca. On  
4 billfish four, how does that affect the bottom longline  
5 for shark during the shark season?

6 MS. LENT: All of these analyses are for  
7 pelagic longline.

8 MR. LOGA: So they can still fish bottom  
9 longline?

10 MS. LENT: Right. And this is the way we've  
11 done the bluefin tuna in June time/area closures only  
12 for pelagic longline.

13 MR. LOGA: Okay, I was just wondering.

14 MR. DUNNIGAN: Okay. Russell.

15 MR. NELSON: Well, then a real important  
16 consideration here, Rebecca, is going to be can you  
17 detect using the vessel monitoring system, can you  
18 detect a distinct signature that applies to bottom  
19 versus pelagic longlining?

20 MS. LENT: According to enforcement, we can.

21 MR. DUNNIGAN: Nelson.

22 MR. BEIDEMAN: Yeah, a question for Rebecca

1 and especially while Gary is still in the room. Glen  
2 wanted me to ask this question while he was still in  
3 but he couldn't wait any longer.

4 Rebecca, twice over the last couple of days,  
5 you know, you've said we welcome a buyout. I'd really  
6 like to know exactly what that means, whether that  
7 means that, you know, you expect that Congress would  
8 have to address that or exactly what. But I've got to  
9 leave here pretty quick to catch a flight and so are  
10 many others.

11 I'd really like to know what you guys, you  
12 know, expect as far as, you know, we welcome a buyout,  
13 you know, because it seems to me that, you know, you're  
14 trying to set yourselves up to go ahead with some type  
15 of substantial closure without considering  
16 compensation.

17 MR. DUNNIGAN: Rebecca, can the Service  
18 comment --

19 MS. LENT: I'll let Gary say it.

20 MR. DUNNIGAN: Gary.

21 MR. MATLOCK: Nelson, I'm sorry, I'm not sure  
22 I heard all the question, but what I think I heard put

1       very simply was is a closure linked to there being a  
2       buyout either in place or going to be in place.

3               Did I get it right?

4               MR. BEIDEMAN:   No.

5               MR. MATLOCK:   Okay.   Ask me again then what  
6       you asked.

7               MR. DUNNIGAN:   I think -- if I may, Nelson --  
8       I think his question was it was said yesterday that the  
9       Service welcomes the efforts to put a buyout thing  
10      together.   Can you comment on whether or not that is  
11      something that the Service supports?

12              Correct?

13              MR. NELSON:   Yes.

14              MR. DUNNIGAN:   Do you support the buyout?

15              MR. BEIDEMAN:   (Inaudible.)

16              MR. DUNNIGAN:   Go ahead, Gary.

17              MR. MATLOCK:   The answer is yes, we very much  
18      support the use of buyouts to reduce capacity  
19      throughout fisheries in the U.S..   We are more than  
20      willing to put them in place.   We have the  
21      infrastructure and the capability to make them work to  
22      get people's input and to structure them in a way that

1 is as responsive to the industry as we can be. We  
2 prefer that the initiation of them begin within the  
3 industry.

4 And, finally, we have no money to make them  
5 happen, so even though we support them we don't have a  
6 golden pocket sitting somewhere to fund them.

7 MR. BEIDEMAN: We realize that. The data --  
8 the follow-up is the data requests that we're going to  
9 need, you know, for the legislative effort. Is there  
10 any timetable or is there any, you know, commitment to,  
11 you know, follow through with that --

12 MR. MATLOCK: The answer is, again, yes.  
13 We'll provide as much data as we can as quickly as we  
14 can to meet people's requests. But I think it's  
15 important to understand we're busy providing what we  
16 can to the AP. That was a very top priority for us and  
17 we've already gotten beat up because you got it on the  
18 day that you met. We couldn't get it to you any  
19 faster.

20 We're also dealing with court challenges which  
21 we have to go, obviously, deal with contempt complaints  
22 against us so we have priorities that come up with

1     which we have to deal, and we'll do that.  But  
2     providing information, I think you'll have to agree,  
3     Nelson, that we've given you a great deal of data and a  
4     great deal of responsiveness over the past several  
5     months in particular and we'll continue to do that to  
6     the maximum that we can.

7                 MR. BEIDEMAN:  Would there be any time frame  
8     on completing the data that Senator Breaux requested in  
9     his recent letter?

10                MR. MATLOCK:  I can't commit to on to you  
11     because I don't control the time frames and the work  
12     loads for the southeast center, and that's from where  
13     those data are coming so I can't give you a time.  I'm  
14     sorry.

15                MR. BEIDEMAN:  Well, what I was -- basically  
16     what I was told from southeast center and from Rebecca  
17     is that it was not at the top of the plate.  And,  
18     again, I don't know exactly, you know, what that means.

19                MR. MATLOCK:  And I don't know either.  I'm  
20     sorry, I just -- the center is the place that actually  
21     decides what they do within their time frame so I can't  
22     answer it.

1 MR. DUNNIGAN: Irby Basco.

2 MR. BASCO: All my questions have been pretty  
3 well answered it's been so long, but I have a question  
4 for Nelson. If my arithmetic is right, 47 boats at \$15  
5 million is about like -- or permits, rather, is like  
6 about \$300,000 because I know there is some  
7 administration costs.

8 Is that what a permit is worth, something like  
9 that?

10 MR. BEIDEMAN: On the present current position  
11 of the compensation formula is that each vessel would -  
12 - each permit would get \$100,000 block price per permit  
13 and then the remainder of the \$15 million would be  
14 split using a formula that the vessels share compared  
15 to all catches in the last three years in that area.  
16 Okay?

17 So the vessels' catches over the past three  
18 years in that area, that share they would receive,  
19 which locks into, you know, the effort. It satisfies  
20 the diversity that even among vessels of the same size  
21 there are different categories of fishermen.

22 MR. DUNNIGAN: Okay. Rebecca wants to clarify

1 something. I'm sorry. Go ahead, Irby.

2 MR. BASCO: One more. I do have a question  
3 for Gary. I think I heard you say that you were  
4 looking at a 0 to 20 percent reduction in the time/area  
5 closures that you all were thinking about? I mean, is  
6 that giving us a benchmark, a 20 percent or 15 percent  
7 on the reduction?

8 MR. MATLOCK: What it's giving you is the  
9 results of the data analyses that we've done and the  
10 range of reductions that might occur for the species  
11 involved at which we looked. For example -- I don't  
12 have the plots in front of me -- yeah, I do.

13 For example, if you close all the way out  
14 through, except for April and May in SWO-3, the amount  
15 of reduction in the large coastal shark discards is  
16 about zero. It goes up I think maybe to a half or one  
17 and the swordfish reduction is about -- well, it's  
18 about 19 percent, it looks like to me.

19 So those numbers I've given you are the  
20 results of the data telling us here's the reduction  
21 that you could expect for those species if you were to  
22 close during these times in those areas.

1                   MR. BASCO: Excuse me one more time.

2       Actually, those percentages you're talking about won't  
3       get us where we need to be; is that correct?

4                   MR. MATLOCK: The answer is not necessarily.  
5       We've not set a target. We don't have the reductions  
6       that we think need to occur because we don't yet have a  
7       rebuilding plan approved by ICCAT. All these  
8       reductions are is this is what would occur based on  
9       these data.

10                  We're not trying to convey in any way that  
11       this is a target that we're shooting for, that this is  
12       a desired result in terms of the number. It's what the  
13       reductions are with these data.

14                  MR. DUNNIGAN: Rebecca wants to clarify, then  
15       I'm going to see where we are.

16                  MS. LENT: Just a second. Russ Nelson, you  
17       had asked me about enforcement. Yes, enforcement told  
18       us that they can enforce a time/area closure for  
19       pelagic longlines only. The way they would enforce it  
20       is not by the signature except the signature of the  
21       vessels tells you whether they're just sailing through  
22       or whether they're making a set.

1           Once they're in port we can tell what they  
2       were making the sets on. That's the way it's enforced.  
3       You can't by the signature tell a bottom longline from  
4       a pelagic longline. I wanted to clarify that.

5           MR. DUNNIGAN: Gail, to that point.

6           MS. JOHNSON: So you are assuming -- are you  
7       saying that the VMS system will be online September  
8       1st, that there will be systems available to put on the  
9       boats and that the providers are all in -- there is a  
10      lot of pieces to this and I'm really concerned that  
11      they're not all (inaudible).

12          MS. LENT: There's a lot of work left to do,  
13      Gail, and we're doing everything we can to meet that  
14      goal.

15          MR. DUNNIGAN: Let me see if I can take a  
16      sense of where we are. We've talked about a lot of  
17      different things. There is general conclusion and  
18      consensus, I believe, around the table that a further  
19      analysis of the information is necessary to harmonize  
20      the different pieces of data that have been brought to  
21      us and to understand what all of those implications  
22      are, that that needs to be done in a technical workshop

1     so that a single set of information can be brought back  
2     to the Service and, indeed, the advisory panel so that  
3     you can really tell them where you think they ought to  
4     be going with this proposal next.

5             Nobody has disagreed that it is essential  
6     before we can carry this process much further that  
7     we've got to have a good technical workshop to bring  
8     all of these pieces of information together.

9             You've had some discussions about timing of  
10    this action and there are two large views that I've  
11    heard. One is that this is an important issue, it  
12    should have been in the plan to start with and that it  
13    shouldn't be delayed at all and September 1st would be  
14    not too soon to carry that program forward.

15            The other view is let's not rush to judgment  
16    here. We're in a point where maybe another couple of  
17    weeks or a couple of months worth of analysis is going  
18    to give us a lot of benefits in terms of being able to  
19    make a better decision, and that what we ought to do in  
20    that case is not to delay or postpone it too far but to  
21    go ahead and default towards making sure we have the  
22    best information rather than rushing to judgment just

1 to have something in place by September.

2 I don't know that I would characterize either  
3 of those, based on what I've heard, as a predominating  
4 view. They have both come up from around the table.

5 And I haven't really heard any of you saying  
6 that, you know, this whole idea of time/area closures  
7 is such a bad idea that we really ought to postpone it  
8 till maybe sometime in the year 2000 or 2001. There  
9 does seem to be a sense that we ought to get on with  
10 it. It's just sort of two views as to how quickly and  
11 in the light of weak information that we ought to have.

12 Also, there has been a lot of discussion over  
13 the last two days around the table and in the  
14 presentations about the proposal to link time/area  
15 closures with a buyout. Again, around the table there  
16 were a couple of sets of views that were expressed. I  
17 don't think I would report back that either of them  
18 represented a real consensus on the table.

19 There are some people who think that what we  
20 have to do for bi-catch we have to do for bi-catch, and  
21 that the Service needs to proceed along that line. And  
22 then there's the other view that, no, even the

1     implications of this it's going to be so devastating to  
2     the industry that you shouldn't proceed with it unless  
3     you have the buyout program in place.

4             And, again, I think that's sort of the right  
5     and the left of where we got on that issue but didn't  
6     have any real clear consensus yet around the table.

7             And then there were some specific issues that  
8     the record will reflect about where particular lines  
9     needed to be drawn and what some of the implications  
10    were. There is still, I think, some uneasiness around  
11    the table that the Service is proceeding perhaps to put  
12    something into place without having yet determined  
13    where it is they want to go with it.

14            And the other answer to that is, well, we  
15    don't really know where we want to go with it until we  
16    see the rebuilding program that comes from ICCAT. And,  
17    again, this is another area where there is going to be  
18    some balance and judgment that needs to be exercised in  
19    finding the middle ground for those.

20            That's where most of our discussion has been  
21    over this issue today and sort of what I can recall  
22    just off the top of my head here about where you were

1 on it.

2 Do any of you think that I've missed anything?  
3 Russell and then David and then Bob.

4 MR. NELSON: I need to clarify it simply by  
5 asking two questions. One, just ask people to raise  
6 their hands if they think that the Service has  
7 sufficient information available now to make credible  
8 decisions on where they should be.

9 MR. DUNNIGAN: We'll do that --

10 MR. NELSON: And then the other would be how  
11 many people disagree with the idea of pursuing a linked  
12 legislative package that might include a buyout. I  
13 think you would find that whereas you characterize it  
14 as being sort of equally divided on those issues I  
15 think there is a certain consensus here.

16 MR. DUNNIGAN: Well, I didn't mean to say  
17 equally divided. I didn't think there was a clear  
18 consensus but let me go ahead and ask you that question  
19 and I'm going to get it on the record. But my concern  
20 is too many people have left and I'm afraid that we'll  
21 send the wrong message, Russ, if we do that, you know.

22 Bob.

1           MR. HUETER: Bob Hueter. I'm going to abstain  
2 if it's voted on because the reason -- and this is the  
3 point I was going to make. The reason I'm hesitant to  
4 get behind any of these and discuss these and endorse  
5 them as an advisory panel member, I am not second-  
6 guessing NMFS' analysis.

7           I'm not saying you guys did this wrong or you  
8 don't have enough information. All I'm saying is if  
9 you want my opinion on this I don't -- you haven't  
10 given me enough information. That's all I'm saying.

11          So, no, I'm not going to vote on whether NMFS  
12 has the information to go ahead with this. If they  
13 have a timetable that they're committed to, fine. I  
14 think we ought to though proceed with the idea of a  
15 technical workshop to bring the information out and  
16 certainly to look at the results of anything that gets  
17 implemented.

18          By the way, I wanted to say that I love  
19 time/area closures as an idea. I'm certainly not  
20 against time/area closures. I think it's a wonderful  
21 idea.

22          MR. DUNNIGAN: David Wilmot.

1                   MR. WILMOT: I was going to say exactly what  
2 Bob said up to the last two sentences. Not that I  
3 disagree with time/area closures but the technical  
4 workshop. The reason I proposed that a paper be put  
5 together is basically NMFS would have the opportunity  
6 to defend what they have presented in this form to each  
7 of us. I think we could see that and then if the AP  
8 could form a consensus then we could demand a technical  
9 workshop.

10                  But until I see that, I would have no reason  
11 to question that NMFS does not have plenty of  
12 information to identify a closed area and put it in  
13 place by September 1st. I actually am anticipating  
14 that they do and look forward to seeing such a paper  
15 developed right away. So that's the one  
16 characterization I would say that's a little different.

17                  MR. DUNNIGAN: Thank you. John Wingard, Rusty  
18 Hudson, and Mau Claverie.

19                  MR. WINGARD: I guess what I would like to say  
20 is if, in fact, a closed area does go forward that  
21 there be some commitment of resources to gathering data  
22 explicitly addressing the effects of the closed area

1     and including in that data collection social and  
2     economic data as well to see what the distributional  
3     impacts are of the closed area just so we don't come  
4     back here again and say we don't really have numbers to  
5     work with.

6             If we go forward with this, I think it's  
7     important that we take advantage of that and explicitly  
8     collect data on the effects.

9             MR. DUNNIGAN:   Rusty Hudson.

10            MR. HUDSON:   Rusty Hudson, directed shark.  
11     Basically whether there is a technical workshop or not  
12     my main concern is we have identified a potential  
13     number to be used as dead discards off the top of what  
14     has, you know, basically could be a directed shark  
15     quota and I want to see what that savings would be. I  
16     can't tell -- maybe I just didn't get enough schooling  
17     from Karyl's stuff -- what the savings would be with  
18     the large coastals.

19            MR. DUNNIGAN:   Mau Claverie.

20            MR. CLAVERIE:   Two things. One is, Rebecca,  
21     when you're doing social economic in consideration of  
22     the intense competition between recreational and

1 commercial with bi-catch, can you please throw in the  
2 recreational benefit as well as the economic and social  
3 benefit?

4 The other is on VMS and identifying what the  
5 longliner is doing, I found a definition in the  
6 regulations of pelagic longline but I haven't found a  
7 definition of shark or bottom longlining. Is that in  
8 there or is that not in there?

9 But the definition of pelagic longlining  
10 doesn't say where in the water column you are or what  
11 you're catching. It says deeper than 50 fathoms so  
12 that is a VMS deal, the location deal. That's not what  
13 you caught or brought to the dock deal. But I don't  
14 know what the concurrent thing is for the shark. If  
15 it's anything shallower than 50 fathoms is considered  
16 shark, well then the VMS does it.

17 MR. DUNNIGAN: Linda Lucas.

18 MS. LUCAS: I want to say I'm in favor of  
19 time/area closures too. I think this paper that we're  
20 talking about ought to have multi -- some information  
21 about these multi-permit holders and just somebody  
22 mentioned vessel characteristics, but I'd like to see

1 something about who is holding multiple permits and are  
2 they part of the proposed buyout scheme.

3 And the overall orientation of the paper I  
4 think should be to provide us with incremental impacts  
5 of various closures, similar to the tables we get with  
6 proposed actions and the impacts of those actions.

7 MR. DUNNIGAN: Thank you. We are sort of  
8 fleshing out here and right now we're telling Rebecca  
9 what we want to see in terms of information coming  
10 back, and that's good for her.

11 Mau.

12 MR. CLAVERIE: Mau Claverie. I wanted to say  
13 something but I didn't want to say it behind Nelson's  
14 back. Nelson, have you got a second now that you're  
15 here?

16 My personal opinion is that that postage stamp  
17 closure area that Blue Water proposed in the Gulf, it  
18 may -- I don't know what it would be for but it  
19 certainly wouldn't help the billfish situation any and  
20 so therefore that one I'm not in favor of from that  
21 point of view.

22 It gets back to what we've always known that

1 the swordfish longlining did not impact the billfish  
2 fishery anywhere near like the yellowfin longlining  
3 does. And that is a swordfish square, as I understand.

4

5 MR. DUNNIGAN: Nelson. You were almost at the  
6 door, too.

7 MR. BEIDEMAN: Yeah, I know. Alan is my ride  
8 though so it's a question if he's coming or what.

9 But the reason that the swordfish focused are  
10 in the Gulf was included in the joint proposal is  
11 because in Jean Kramer's work that area came up as the  
12 number one dead swordfish discard problem for quarter  
13 number one.

14 So we strongly felt that -- you know, and it's  
15 called the rat hole. I mean, that's what it is.  
16 Fishermen know damn right well it's a nursery ground  
17 area and we thought it needed to be included. It's  
18 larger than the NMFS overheads. It's one and a half by  
19 one degree.

20 A PARTICIPANT: (Inaudible.)

21 MR. BEIDEMAN: Right, it doesn't help billfish  
22 much.

1           MR. DUNNIGAN: Rusty Hudson. It doesn't help  
2 billfish. Rusty Hudson then Bob Spaeth.

3           MR. HUDSON: Mau brought up an interesting  
4 thing about the definition of bottom longline  
5 particularly with this 50-fathom thing. A lot of the  
6 fellows will go outside of 300 feet especially in the  
7 Straits of Florida to catch sandbar, 400 foot is  
8 normal.

9           If we wanted to target bignose, which is a  
10 huge population on the eastern seaboard and Gulf of  
11 Mexico we would be in 400 to 2,000 foot of water on the  
12 lower water column because they rarely get in the  
13 middle and upper water column. So would we have to  
14 have VMSS? You know, we're getting into a whole host  
15 of things there for this definition of a distance or  
16 depth.

17           MR. SPAETH: Bob Spaeth.

18           MR. SPAETH: Well, I have some real problems  
19 and it's just, you know --

20           A PARTICIPANT: (Inaudible.)

21           MR. SPAETH: It comes up time and time again  
22 where on advisory panels, not just this one, we're

1     asked to make decisions when I don't know how humanity  
2     is going to be impacted. You know, I know how the fish  
3     are going to be impacted. I got a million dollars  
4     worth of analysis on that.

5             But when we come to trying to balance it and  
6     come up and go by all these guidelines you put up in  
7     the thing and in the Magnuson Act, I don't think it was  
8     the intent of Congress for us to go and throw out a  
9     closed area and then go back and see if it hurt  
10    anybody.

11            I think that they wrote those protections in  
12    there for the industry, both recreational and  
13    commercial, so those kind of things don't happen and we  
14    don't have to go back after we've created a legislative  
15    disaster, economic legislative disaster. You know, for  
16    that reason, you know, I can't see us doing an economic  
17    analysis, getting the profile of the fishery and the  
18    boats and everything done in ten weeks. That's  
19    September 1st.

20            MR. DUNNIGAN: And thank you, Bob. In all  
21    fairness, that was something that I should have said  
22    when I was trying to summarize.

1           Earlier in our discussions there was -- and  
2   this was yesterday as well -- it was stated a number of  
3   times that we've been given an analysis that looks at  
4   the numbers of the fish and that the decision needs to  
5   also have an analysis of some socioeconomic issues as  
6   well rather than just what we've got so far, which is  
7   the bi-catch numbers. And that was stated and I think,  
8   you know, nobody really disagreed with that  
9   proposition.

10           Gary.

11           MR. MATLOCK: Thanks, Jack. Your point is  
12   very well made, Bob, and very well taken. And it at  
13   least was my hope that as a result of the discussions  
14   from having given you something relative to the fish we  
15   could have in a day and a half capitalized upon the  
16   AP's knowledge and you given us some meaningful  
17   comments like you've just given us about the paper you  
18   want from us on the impacts on the fish that we could  
19   take away not only your suggestions on what to look at  
20   but also information that you could have given.

21           We will have to do a very extensive economic  
22   and social impact assessment of whatever closure we do,

1     and we'll do that to the best extent that we can. We  
2     did not have time to do that before today and if there  
3     had been much more agreement that a closed area of some  
4     sort of magnitude is what needs to be done to deal with  
5     the bi-catch issue, we could have had more time to talk  
6     about your input on what kinds of social and economic  
7     things to look at.

8             Unfortunately, that did not happen so we will  
9     have to do it with what we have between now and  
10    whenever we propose something.

11            MR. DUNNIGAN: Bob Hueter, then Bob Zales.

12            MR. HUETER: Bob Hueter. Gary, this goes  
13    right to the point I was making about the complexity of  
14    this issue. The impacts on the fish and the impacts on  
15    the fishermen are not separate issues. These are  
16    inextricably intertwined. Say that three times.

17            When you move fishermen out of an area either  
18    in time or in space, the socioeconomic factors affect  
19    how the fishermen respond to that, which then effects  
20    the fish. That's why I'm saying that the assumptions  
21    are very important and why I feel it's a complex issue.

22            MR. DUNNIGAN: Bob Zales.

1           MR. ZALES: Yeah, a couple things. First off,  
2 a question. Wasn't there a social economic study  
3 recently done by somebody, either it was the Fisheries  
4 Service or a grant or something? I know a year or so  
5 ago at a meeting there was a guy and a girl that was  
6 getting information and they came to Panama City. I  
7 know that because I gave them information on  
8 (inaudible) for highly migratory species is what the  
9 thing (inaudible).

10           So what happened to that? Where is that  
11 information?

12           MS. LENT: There was a study done by the  
13 University of Florida. Sherry Larkin.

14           MR. ZALES: No, this wasn't University of  
15 Florida. This was either somebody in your Agency or --

16           MS. LENT: Or Rutgers. Doug Wilson?

17           MS. PEEL: That's it.

18           MS. LENT: That was an anthropological study  
19 and that is in the FMP. There is a summary of it and  
20 he's quoted throughout.

21           MS. PEEL: (Inaudible.)

22           MR. ZALES: Okay, that's -- and the other

1     thing is when this thing first started the recreational  
2     community immediately took hits, because I know I made  
3     the motion for the increase in size limit. We've had  
4     two increases before that.

5             And at the very beginning of this process I  
6     distinctly remember time/area closures bi-catch being  
7     mentioned for swordfish and everything else, so this  
8     September 1st date that you all got set to me is  
9     actually a little bit too late. I would hate to  
10    totally agree with the environmental community but I  
11    think they're right.

12            And anybody that fishes, whether it be  
13    recreational, commercial or whatever, that's sitting  
14    here saying, well, we can't deal with September 1st,  
15    they've been on another planet for the past two or  
16    three years. So go forward with whatever you've got to  
17    go with, deal with whatever lawsuits you're going to  
18    deal with, and have at it.

19            MR. CLAVERIE: As a lawyer I say that's great.

20            MR. DUNNIGAN: As the father of a law school  
21    graduate two weeks ago, I think it's a good idea too.

22            MR. CLAVERIE: Super. Congratulations. Gary,

1     does anybody remember variable season closure? This is  
2     the same thing over again except now we're throwing bi-  
3     catch into the soup. So I hope whatever the history  
4     was that that went down in flames that we can remember  
5     so it doesn't repeat.

6                 MR. DUNNIGAN: I think that we're about sort  
7     of through what we can do unless anybody feels they  
8     have any other questions or directions they want to try  
9     to give to Rebecca. I think we can sort of move ahead.  
10    We have one or two housekeeping things, and see where  
11    we go from there.

12                Any suggestions? John, the last word.

13                MR. GRAVES: Yeah, just the last word here.  
14    One comment. There was an anthropological study done.  
15    What those primarily were were community profiles  
16    studies. They serve as a baseline at most, but as what  
17    I'm looking for are directional and magnitudinal types  
18    of effects of different proposals which communities  
19    baseline studies are only sort of a minimal starting  
20    point. They don't really -- they're not dynamic  
21    studies.

22                And that's what just like what I mean by

1 dynamic studies is we know we can make guesstimates on  
2 what's going to happen to fish populations. We need to  
3 do the same thing with what's going to happen with  
4 human populations as well. So I commend the baseline  
5 community studies but that's just more or less a static  
6 evaluation at this point.

7 MR. DUNNIGAN: Okay, great. Thank you. He  
8 had the last word, Ellen, but --

9 MS. PEEL: (Inaudible.)

10 MR. DUNNIGAN: Ellen Peel.

11 MS. PEEL: Well, I was looking for Karyl but  
12 maybe she's already done.

13 MS. LENT: We'll give it a try. Shoot.

14 MS. PEEL: Well, now, you've got four, five,  
15 and six, and I guess what's puzzling me so or  
16 confounding me so is, in billfish -- yes, I forget, you  
17 know, it's the only fish in the sea.

18 But, you know, the science that Dr. Goodyear  
19 presented yesterday included some of all of that area  
20 but it was certainly - it didn't go as far south as  
21 yours but it went further east and west. I mean -- no,  
22 it didn't go as far east as BIL-6 but it took in some

1 of the northerly portions of four, five, and six.

2 But her -- so you didn't look at closer in and  
3 more elongated. Her work just showed that you're  
4 taking the sections? Okay, I mean, I would hope that a  
5 technical meeting would -- could reduce that up some  
6 more to the east.

7 MR. DUNNIGAN: Thank you.

8 MS. LENT: Yeah, we may even before that take  
9 another look based on what Phil has --

10 MS. PEEL: Okay, (inaudible).

11 MS. LENT: Could we have either the disk or  
12 something written from Phil?

13 MS. PEEL: Do you have what?

14 MS. LENT: Either his -- Phil, you're here.  
15 Do we have your disk or something we could keep -- the  
16 papers --

17 MS. PEEL: Yes.

18 MS. LENT: Okay.

19 MR. DUNNIGAN: Okay, they're working on it.  
20 Mr. Claverie.

21 MR. CLAVERIE: One other thought, Rebecca and  
22 Gary. On the closure and the time in the Gulf, we know

1 the marlin are gone during the winter. They come back  
2 in the spring and they hang around until the fall and  
3 then they leave again.

4 So if you want to minimize the time of the  
5 closure, one question is is it better to close the  
6 longline when they're coming in and let them get in or  
7 is it better to close after they're in? I don't know  
8 if there will be any data that would show that, but if  
9 there is -- if somebody can glean something from that  
10 it might maximize the benefit to the billfish in the  
11 recreational fishery and minimize the time length of  
12 the closure for the benefit of the yellowfin longline  
13 fishery. And I just don't know what the answer is.

14 MR. DUNNIGAN: Okay. Good question. Mr.  
15 Perett's last work.

16 MR. PERETT: Thank you very much. I can not  
17 let two attorneys be the last individuals to comment.  
18 You know, fisheries is scientist biologies and  
19 biologists should be the ones that lead the show  
20 although the lawyers seem to be taking over.

21 Thank you.

22 MR. DUNNIGAN: Okay. Rebecca, you had some

1 closing thoughts for us, did you say?

2 A PARTICIPANT: (Inaudible.)

3 MR. DUNNIGAN: No, we're moving off of  
4 time/area. We did have an item on the agenda for  
5 discussing other issues that you might want to although  
6 I know some of the people that had other issues have  
7 left and it's getting a little bit late.

8 I think one of the things that we need to  
9 understand and perhaps Rebecca can mention this to all  
10 of us next time is that if we plan a meeting till 4:00,  
11 members have to be ready to stay till 4 o'clock. So if  
12 you all want to bring up any other issues I suppose we  
13 have a chance to do that but --

14 A PARTICIPANT: (Inaudible.)

15 MR. DUNNIGAN: That's right. Okay. Rusty,  
16 your comment.

17 MR. HUDSON: Rusty Hudson, directed shark.  
18 I've got a few questions -- it's like 14 of them and --

19 MR. DUNNIGAN: On something else?

20 MR. HUDSON: Shark.

21 MR. DUNNIGAN: On sharks. Let --

22 MR. HUDSON: They're basically technical

1       questions that I think would be better one-on-one.

2               MR. DUNNIGAN: Can you just work those out  
3       with the staff?

4               MR. HUDSON: Well, I could or with Gary or  
5       Rebecca and then they could figure out who is the  
6       appropriate staff.

7               MR. DUNNIGAN: Sure, okay. Thank you, Rusty.  
8       Rebecca.

9               MS. LENT: Well, as you all know, your  
10      appointment to this auspicious body, or these  
11      auspicious bodies, was for a limited term. You thought  
12      it would never end. For billfish, all of you, your  
13      appointments are up October 11th, 1999. For HMS, if  
14      you look at the SOPS, in our infinite wisdom we  
15      apparently decided that we needed to keep some  
16      continuity so half of the people are up April the 6th -  
17      - I'm sorry, October 11th and the other half are up  
18      April the 6th.

19              And that's based on alphabetical order so the  
20      following people are going to be off the HMS AP as of  
21      October 11th: Nelson Beideman, John Dean, Bob Eakes,  
22      Sonja Fordham, Bob Hueter, Gail Johnson, Joe McBride,

1 Rich Ruais, Mark Sampson, Peter Weiss, and David  
2 Wilmot.

3           What we're going to do this summer is again  
4 publish a federal notice, a Federal Register notice,  
5 saying we call for nominations for both of these panels  
6 and we'll get all of that information in and then make  
7 a selection based on the same type of composition that  
8 we've had before.

9           I would suggest, although we haven't discussed  
10 this within Fisheries Service-wide, but I would suggest  
11 that we go ahead and make the nominations both for  
12 replacements in October and in April so that we have  
13 those people ready to go in April.

14           But we'll discuss that later, so just that  
15 warning and then maybe get out there and find other  
16 people that you think would like to have this great  
17 experience that you've been having.

18           MR. DUNNIGAN: When do you expect you're going  
19 -- when is the Federal Register notice going to come  
20 out?

21           MS. LENT: I'd like to get that out within a  
22 few weeks, if we can.

1 Gary, do you have anything to add?

2 MR. MATLOCK: No. But because I don't  
3 remember, are the folks that are on now subject to  
4 reappointment?

5 MS. LENT: They can be reappointed.

6 MR. MATLOCK: Yeah, so the ones that Rebecca  
7 listed are not necessarily off; it's that their term  
8 ends. To be on, to stay on, they would have to be  
9 renominated.

10 MR. DUNNIGAN: Yes, Russ. Russ Dunn.

11 MR. DUNN: Can you just run over that list one  
12 more time? And you said it was done alphabetically?

13 MS. LENT: Yes.

14 MR. DUNN: How do you get Beideman and Wilmot  
15 in the same alphabetical list?

16 MS. LENT: We numbered them one through -- so  
17 it's odd and even. It's odd and even. Sorry.

18 MR. DUNN: Okay.

19 MS. LENT: We do them alphabetically and then  
20 we do odd and even.

21 MR. DUNNIGAN: Okay. So everybody needs to  
22 keep their eyes on that and make sure that you get your

1 nominations in or whoever else. And it's an open  
2 nomination process, correct? Anybody can nominate  
3 anybody. My mother-in-law can nominate my father-in-  
4 law, right?

5 A PARTICIPANT: (Inaudible.)

6 MR. DUNNIGAN: An individual could even do a  
7 self-nomination. Volunteer, it's called.

8 Thank you. Any other issues to come before  
9 the AP this afternoon? Mr. Claverie.

10 MR. CLAVERIE: Yeah. Rebecca, there are two  
11 seeming hot spots in the regulations that I wanted to -  
12 - well, the people who wanted to talk about it have  
13 left but, for your information in case you want to talk  
14 about it now or put it on the next thing.

15 Number one is the three yellowfin tuna that  
16 there's been a lot of dissatisfaction with that, not  
17 because it's three but because that's the beginning and  
18 it's got to go down. And so there is still a desire  
19 that it start higher so that after you go through ICCAT  
20 on doing something about yellowfins that you'll get  
21 down to that low.

22 The other thing is the U.S. regulations

1     affecting U.S. citizens when they are somewhere else in  
2     the Atlantic fishing on a foreign flag vessels seems to  
3     be a problem that is getting people's attention and  
4     complaint.

5             Now, I really don't know. I know that U.S.  
6     flagged vessels landings from anywhere in the Atlantic  
7     count against the U.S. quota or whatever it may be, but  
8     I don't think -- I don't know if ICCAT or our Magnuson-  
9     Stevens Act or what requires that regulations that are  
10    binding on U.S. vessels or on U.S. citizens within our  
11    own EEZ must also be binding on U.S. citizens when  
12    they're fishing on foreign flags in other nations. I  
13    don't know if that has to be or it's just a decision  
14    you all made.

15            MR. DUNNIGAN: Miriam McCall. Miriam,  
16    microphone.

17            MS. McCALL: (Inaudible.)

18            MR. DUNNIGAN: Yes, you have to speak into a  
19    microphone.

20            MS. McCALL: (Inaudible.)

21            MR. DUNNIGAN: No, but the tape won't get it.

22            MS. McCALL: I don't have my statutory sites

1 in front of me but I think if you look at the  
2 definition of the Atlantic Tunas Act at the definition  
3 of person and also at the prohibitions section in the  
4 Atlantic Tunas Convention Act, it makes it clear that  
5 the prohibitions apply to a person.

6 And then you look at the definition of person  
7 and it refers to persons subject to the jurisdiction of  
8 the United States which, of course, one's citizenship  
9 makes one subject to the jurisdiction of the United  
10 States.

11 So, now I might be misremembering. Likely I  
12 am, but I suggest you start there.

13 MR. CLAVERIE: Well, it just seems to me that  
14 that sounds like another arena where a little  
15 government edicting can cure the problem.

16 MR. DUNNIGAN: The issue before us right now  
17 is other agenda items that we want to see for the next  
18 meeting of the AP. Ellen, did you have something to  
19 offer there?

20 MS. PEEL: I had another perspective from what  
21 Mau raised. I mean, if the goal of this panel  
22 domestically and internationally at ICCAT is to

1 recovery, let's say billfish in this situation because  
2 they are severely overfished, the mortality needs to be  
3 reduced not only in the United States but outside by  
4 citizens of other countries and outside by the U.S.  
5 citizens, anglers, who can afford to go to other  
6 countries.

7 So I had not heard any backlash but that  
8 conservation applies beyond on both recreational boats  
9 and the commercial boats.

10 MR. DUNNIGAN: The issue here is for an agenda  
11 item for next time. Rusty Hudson, did you have  
12 something to offer for that?

13 MR. HUDSON: Well, in order to be prepared  
14 myself for that agenda I need to have a question  
15 answered on the limited access. When is it considered  
16 officially established? What date?

17 MR. DUNNIGAN: July 1st.

18 MR. HUDSON: Okay. This year.

19 MR. DUNNIGAN: Correct.

20 MR. HUDSON: Okay. So, technically, even  
21 though all the boats aren't qualified we don't have an  
22 absolute number in the universe, we are technically

1 July 1st it will be because your appeals go through  
2 September.

3 MS. LENT: There is going to be applications  
4 and then appeals.

5 MR. HUDSON: So, really, September is when we  
6 get a final number on those participants, right? Okay.

7 MR. DUNNIGAN: Go ahead, Ellen Peel.

8 MS. PEEL: A question of clarification. A  
9 couple years ago, maybe it was three even, but at some  
10 point in the past when we were talking limited access  
11 in the longline fishery we had a control date which is  
12 several years past. I thought that that was the date  
13 that -- at which we started counting vessels that were  
14 in the fishery.

15 What was that '96 control date that we used --  
16 in the early discussions on limited access, what was  
17 that?

18 A PARTICIPANT: (Inaudible.)

19 MS. PEEL: No, no, no. I'm sorry, you're as  
20 narrow focused as I am on another species. But, I  
21 mean, there was a control date I know that we discussed  
22 earlier in the limited access discussions when we were

1     talking about only that, a much earlier control date.  
2     I thought it was in '96. I'm sure Nelson would know if  
3     he were here.

4             MS. LENT: But there is a control date for  
5     swordfish and there is a control date for sharks, and  
6     then we also had dates over which you would have  
7     landings history and dates over which you would have  
8     permit history to qualify.

9             MS. PEEL: But the dates for the limited  
10    access are all '99, right?

11            MS. LENT: Limited access begins July 1, 1999  
12    Everybody has got their packets of information.

13            MS. PEEL: Right. But so anyone can still  
14    enter the fishery up until those '99 control dates,  
15    correct?

16            MS. LENT: If they entered the fishery today  
17    they would lose their permit. Oh, no, actually, they  
18    couldn't enter today. We wouldn't issue the permit.

19            MS. PEEL: Okay, so then --

20            MS. LENT: If they came in in January '99 they  
21    would --

22            MS. PEEL: Okay, that's fine.

1                   MR. DUNNIGAN: Bob Zales.

2                   MR. ZALES: Yeah, I just want to agree with  
3   Mau on the yellowfin thing because there is a lot of  
4   concern in the Gulf of Mexico not so much with the bag  
5   limit itself but just the potential regulatory  
6   atmosphere on yellowfins primarily because it's our  
7   understanding that up until today, I suspect, that the  
8   recreational yellowfin fishery technically doesn't  
9   exist with data.

10                  There is no data to say what's been caught and  
11   what hasn't been caught, and now that they've  
12   established a three fish bag limit I suspect at some  
13   point there will be this tremendous entry of  
14   recreational we caught yellowfin tuna fish out in the  
15   Gulf of Mexico because a large fleet survey doesn't  
16   survey the Gulf of Mexico and that's where that  
17   information comes from.

18                  MR. DUNNIGAN: Well, the request to look into  
19   this at our next meeting is there and staff will take  
20   care of that.

21                  Other suggestions for future agenda items for  
22   the AP?

1 (No response.)

2 MR. DUNNIGAN: Other issues that anybody wants  
3 to bring up before the AP under other business?

4 A PARTICIPANT: (Inaudible.)

5 MR. DUNNIGAN: This group, I am certain, is  
6 going to have another meeting.

7 A PARTICIPANT: (Inaudible.)

8 MR. DUNNIGAN: Yeah, I think, you know, the  
9 only issue is when and, I don't know, my understanding  
10 is I would guess that Rebecca would want you to come  
11 back together before they made a final decision on  
12 time/area closures for sure.

13 A PARTICIPANT: (Inaudible.)

14 MR. DUNNIGAN: Well, under their current  
15 planning target that would be.

16 A PARTICIPANT: (Inaudible.)

17 MS. LENT: -- can't commit to that meeting.  
18 Ideally, we would like to have another AP meeting  
19 before we go final but a lot of this depends on  
20 schedules and one of the reasons too why we had this  
21 meeting today was it's just jam-jam packed --  
22 commissions, councils, commission, council.

1                   This is the one place we could wedge in a day  
2   and a half meeting and we overlapped with the Mid-  
3   Atlantic as it is. So that's part of the question and  
4   also just the logistics of getting everybody together.

5                   A PARTICIPANT: (Inaudible.)

6                   MS. LENT: If it's time area, probably.

7                   MR. DUNNIGAN: Rusty.

8                   MR. HUDSON: Rusty Hudson, directed shark. On  
9   the shark evaluation workshops that are going to be  
10   coming up on small coastals, pelagics and/or large  
11   coastals eventually, is that in the domain of the AP to  
12   sort of try to help that along or is that totally up to  
13   you all to do?

14                  MR. DUNNIGAN: Gary Matlock.

15                  MR. MATLOCK: Rusty, that's actually scheduled  
16   and set up by the center. We tell them what the needs  
17   are that we have. If we have, for example, a need in a  
18   year in a particular group we try to influence what  
19   they do and when they do it, but that's really under  
20   their purview. The AP can make recommendations or  
21   comments about anything you want, obviously, so if you  
22   wanted to address something to the center you could do

1       that and we would relay it to them.

2               MR. HUDSON:   Basically, I had understood that  
3       there was an effort underway to try to get both pelagic  
4       and small coastal done in a rapid fashion as far as,  
5       you know, a reassessment since one hasn't been done  
6       since '92.

7               And I'm not sure when the large coastal will  
8       be next.  I do think you have a three-year space now  
9       that you've sort of looked at, so I'm just kind of  
10      wondering if we can help them along by, as you're  
11      saying --

12              MR. MATLOCK:   (Inaudible.)

13              MR. DUNNIGAN:   Thank you.  Well, thank you  
14      everybody.  Now, who gets the last word -- Claverie or  
15      Matlock?

16              A PARTICIPANT:   I do.

17              A PARTICIPANT:   (Inaudible.)

18              MR. DUNNIGAN:   Okay, Mau.  Go ahead.

19              MR. CLAVERIE:   (Inaudible.)

20              MR. DUNNIGAN:   What is now on the website  
21      relative to regulations and plans?

22              MS. LENT:   Both the plan and the amendment are

1 up. The final rule -- is it upon the web yet?

2 A PARTICIPANT: (Inaudible.)

3 MR. DUNNIGAN: There is a link to GPO access  
4 on the website to the final rule.

5 MR. CLAVERIE: I've got that, but one thing I  
6 haven't been able to find is the Billfish Amendment,  
7 the final.

8 A PARTICIPANT: (Inaudible.)

9 MR. CLAVERIE: Where is it on?

10 A PARTICIPANT: (Inaudible.)

11 MR. DUNNIGAN: It wasn't on the same time as  
12 the FMP (inaudible). The Billfish Amendment is now.

13 MR. CLAVERIE: Well, is it in the same site?

14 MR. DUNNIGAN: Same site.

15 MR. CLAVERIE: I haven't been able to find it.  
16 Summary, yes, but not the document.

17 MR. DUNNIGAN: Okay. Gary Matlock.

18 MR. MATLOCK: I just wanted to convey the  
19 thanks to those of you who have stayed through the  
20 duration of this meeting, and given those who have left  
21 before the end of the meeting we're going to have to do  
22 something to the scheduling so that that does not

1     continue to occur because some of the issues that Ray,  
2     for example, raised we have an hour before we end  
3     almost and he could raise them if he were here. We're  
4     scheduled to go until 4 o'clock and so we can't get  
5     them raised.

6             So we're going to have to deal somehow or  
7     another with the scheduling of the meetings so that  
8     people know that they need to stay. For example, I've  
9     changed my own personal schedule to be here until 4  
10    o'clock, as have some of the staff. We're here. So  
11    we've got to fix this problem somehow, guys.

12            A PARTICIPANT: Gary, I would suggest that you  
13    start a meeting early in the morning on the first day  
14    and you end it by noon, particularly if it's a Friday,  
15    so that way people have got the time to stay till it's  
16    scheduled, and then you get flights home.

17            So I would suggest you go ahead and load it  
18    up. Instead of starting at 1:00, start at 9:00 in the  
19    morning and let people come in the night before. It's  
20    easier to do that than it is to not go home on a Friday  
21    night.

22            MR. DUNNIGAN: Bob Zales.

1                   MR. ZALES: (Inaudible.)

2                   MR. DUNNIGAN: Thank you. Thank you,  
3 everybody. See you next time. We are done. Thank  
4 you.

5                   (Whereupon, the meeting was adjourned.)

6                                   \* \* \* \* \*